



LODI CITY COUNCIL

Carnegie Forum
305 West Pine Street, Lodi

AGENDA – REGULAR MEETING

Date: November 4, 2009

Time: Closed Session 6:30 p.m.
Regular Meeting 7:00 p.m.

For information regarding this Agenda please contact:

Randi Johl, City Clerk
Telephone: (209) 333-6702

6:55 p.m. Invocation/Call to Civic Responsibility. Invocations may be offered by any of the various religious and non-religious organizations within and around the City of Lodi. Invocations are voluntary offerings of private citizens, to and for the benefit of the Council. The views or beliefs expressed by the Invocation Speaker have not been previously reviewed or approved by the Council, and the Council does not endorse the beliefs or views of any speaker.

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the City Clerk, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the City Clerk's Office as soon as possible and at least 24 hours prior to the meeting date.*

C-1 Call to Order / Roll Call

C-2 Announcement of Closed Session

- a) Prospective Lease of a Portion of 218 West Pine Street and 211 Oak Street, Lodi, Negotiating Parties of City of Lodi, Oddfellows Hall Association of Lodi and Beckman Capital Corporation, for the Placement of Environmental Cleanup Equipment, Price and Terms are Under Negotiation, Pursuant to Government Code Section 54956.8

C-3 Adjourn to Closed Session

NOTE: THE FOLLOWING ITEMS WILL COMMENCE NO SOONER THAN 7:00 P.M.

C-4 Return to Open Session / Disclosure of Action

A. Call to Order / Roll call

B. Pledge of Allegiance

C. Presentations

C-1 Awards – None

C-2 Proclamations

- a) National Runaway Prevention Month

C-3 Presentations

- a) Stephen Qualls, Central Division, League of California Cities Representative (CLK)
- b) Quarterly Update by the Greater Lodi Area Youth Commission (COM)
- c) Electric Utility 100th Anniversary (EUD)

D. Consent Calendar (Reading; Comments by the Public; Council Action)

D-1 Receive Register of Claims in the Amount of \$5,365,317.65 (FIN)

D-2 Approve Minutes (CLK)

- a) October 7, 2009 (Regular Meeting)
- b) October 20, 2009 (Shirtsleeve Session)

D-3 Accept the Quarterly Investment Report As Required by Government Code Section 53646 (CM)

- D-4 Accept Quarterly Report of Purchases Between \$5,000 and \$20,000 (CM)
- Res. D-5 Adopt Resolution Authorizing the City Manager to Allocate an Additional \$75,000 from the Lodi Public Benefits Program Fund for Use by the Lodi G2 Customer Rebate Program (EUD)
- D-6 Approve Plans and Specifications and Authorize Advertisement for Bids for Water Main Replacement Program Project No. 3 (PW)
- Res. D-7 Adopt Resolution Authorizing Additional Task Order with West Yost Associates for Fiscal Year 2009/10 to Provide Permit Assistance and Prepare Various Studies Required by the City's Wastewater Discharge Permit (\$392,300) and Appropriating Funds (\$435,000) (PW)
- Res. D-8 Adopt Resolution Awarding Contract for City-Funded Maintenance of Landscape Areas for 2010 to Dominguez Landscape Services, Inc., of Sacramento, for Groups A, B, and C for an Annual Cost of \$174,686 (PW)
- Res. D-9 Adopt Resolution Approving 2010 Street Maintenance Project for Proposition 1B Funding (\$2,000,000) (PW)
- Res. D-10 Adopt Resolution Approving Second Supplemental Agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with G-REM, Inc., to Provide Time Extension (PW)
- Res. D-11 Adopt Resolution Repealing Resolution No. 2009-120 and Approving Vacation of Surplus Portion of Loma Drive Lying Adjacent to Parcel Located at 1310 West Turner Road and Authorizing City Manager to Execute Amended Agreement to Exchange Vacated Right-of-Way for Public Improvements (PW)
- D-12 Accept Donation to the Police Department for the Purchase and Installation of Two Powerheart G3 Automatic Automated External Defibrillators and Two Cabinets (\$3,400) and an In-kind Donation to the Police Department of Two Powerheart G3 Automatic Automated External Defibrillators (\$2,800) (PD)
- D-13 Consider Loaning of Gram-O-Phone to World of Wonders Science Museum for Display (CM)

E. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

F. Comments by the City Council Members on Non-Agenda Items

G. Comments by the City Manager on Non-Agenda Items

H. Public Hearings

- Res. H-1 Conduct a Public Hearing to Consider the Adoption of a Resolution to Update the Planning Division's Hourly Rate and Setting Various Fire Inspection Fees (CD)

I. Communications

- I-1 Claims Filed Against the City of Lodi – None
- I-2 Appointments – None
- I-3 Miscellaneous – None

J. Regular Calendar

- J-1 Receive Report on Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility (CD)
- Ord. J-2 Introduce State Video Franchise Ordinance Establishing the Obligations of Cable Operators
(Introduce) Providing Service in the City of Lodi Under a State Franchise Agreement (CM)
- J-3 Report on Possible Transit Fare Increases and Route Modifications and Consider Setting Public Hearing for a Date Determined by City Council (PW)
- J-4 Designation of Two Council Members to Participate in the Selection Process for a New Electric Utility Director (CM)

K. Ordinances

- Ord. K-1 Adopt Ordinance No. 1825 Entitled, "An Ordinance of the City Council of the City of Lodi
(Adopt) Amending Lodi Municipal Code Chapter 15.68, 'San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees,' by Repealing and Reenacting Section 15.68.020(B), "Annual Adjustment" (CLK)

L. Adjournment

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

Randi Johl
City Clerk



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: National Runaway Prevention Month

MEETING DATE: November 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: Mayor Hansen present a proclamation proclaiming the month of November 2009 as "National Runaway Prevention Month" in the City of Lodi.

BACKGROUND INFORMATION: The Mayor was requested to present a proclamation proclaiming the month of November 2009 as "National Runaway Prevention Month" in the City of Lodi. Kathleen Halliday, representing the Family and Youth Services of San Joaquin County, will be at the meeting to accept the proclamation.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

Randi Johl
City Clerk

APPROVED: _____
Blair King, City Manager



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Presentation by Stephen Qualls, League of California Cities, Central Division Representative

MEETING DATE: November 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: None.

BACKGROUND INFORMATION: Stephen Qualls, Central Valley Division representative of the League of California Cities, requested an opportunity to come and present the golf tournament trophy from the League-CitiPac fundraiser to the City of Lodi and the presentation was agendaized accordingly. Mr. Qualls will also be providing an update on the League's recent ballot initiative efforts.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None.

Randi Johl
City Clerk

APPROVED: _____
Blair King, City Manager



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Quarterly Update by the Greater Lodi Area Youth Commission

MEETING DATE: November 4, 2009

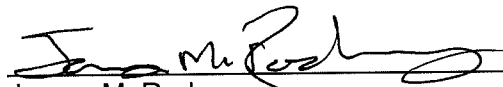
PREPARED BY: Brad Vander Hamm, LYC Liaison

RECOMMENDED ACTION: Receive quarterly update from Greater Lodi Area Youth Commission (LYC). We also will honor the following Teens of the Month: August - Jenny Zimmerman and Janay Larson, September - Marco Ruiz, and October - Kristyn McQueen.

BACKGROUND INFORMATION: The LYC desires to stay more connected to the City Council and the community by having current commissioners provide a quarterly reports on the activities of the Commission and also recognize students that have been honored as Teen of the Month.

FISCAL IMPACT: None

FUNDING AVAILABLE: None


James M. Rodems
Community Center Director

Prepared by: Brad Vander Hamm, Liaison
Greater Lodi Area Youth Commission

APPROVED: 
Blair King, City Manager



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Electric Utility 100th Anniversary (EUD)

MEETING DATE: November 4, 2009

PREPARED BY: Interim Electric Utility Director

RECOMMENDED ACTION: Receive presentation on the Electric Utility 100th anniversary.

BACKGROUND INFORMATION: In 2010, the Electric Utility Department (EUD) will celebrate its 100th anniversary as a municipal electric service provider. During the course of the next 15 months, the EUD will coordinate several community activities to recognize this milestone.

To start the festivities, the EUD is launching a "100th Anniversary Logo Contest." From now until December 15, 2009, residents of Lodi will have the opportunity to create a new logo for the EUD to use during its centennial year. The winning entry will be featured at the utility's web site, on public mailings, brochures, newspaper advertisements, letterhead, etc. The winner of the contest will receive a \$200 gift card, redeemable at any Lodi store.* Anyone interested in submitting a logo can view the program guidelines at the utility's web site: www.lodielectric.com. The utility is also enclosing a small brochure in the November utility bills for customers to review.

As July 2010 is the official 100th anniversary month, the EUD will hold its Centennial Celebration on Saturday, July 17, 2010, from 9 am to 1 pm at Hutchins Street Square. This free community event will feature the "Lodi Electric Utility Past, Present and Future" exhibits, linemen's demonstrations, an antique car and electric car exhibit, a lunch for the first 1,500 citizens, children's activities, and more. In addition, the celebration will feature speakers from the local, state and federal government levels.

Lastly, the EUD staff will participate in the annual Lodi Parade of Lights in late 2010. At this time, the utility is considering entering parade vehicles and floats to commemorate its centennial, having proudly served safe and reliable electric service to the citizens of our community for the past 100 years.

FISCAL IMPACT: None

FUNDING AVAILABLE: No impact.

A handwritten signature in black ink, reading "Kenneth A. Weisel".
Kenneth A. Weisel
Interim Electric Utility Director

Prepared By: Rob Lechner, Mgr. Customer Service & Programs
KW/RSL/ist

* City employees, their immediate families and household members will not be eligible.

APPROVED: _____
Blair King, City Manager



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive Register of Claims Dated October 1, October 8, and October 15, 2009 in the Total Amount of \$5,365,317.65

MEETING DATE: November 4, 2009

PREPARED BY: Financial Services Manager

RECOMMENDED ACTION: Receive the attached Register of Claims for \$5,365,317.65

BACKGROUND INFORMATION: Attached is the Register of Claims in the amount of \$5,365,317.65 dated 10/01/09, 10/08/09 and 10/15/09. Also attached is Payroll in the amount of \$1,215,434.23

FISCAL IMPACT: n/a

FUNDING AVAILABLE: As per attached report.

Ruby R. Paiste, Financial Services Manager

RRP/rp

Attachments

APPROVED: _____
Blair King, City Manager

Accounts Payable
Council Report

Page
Date
Amount

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- 10/20/09

As of Thursday	Fund	Name	
10/01/09	00100	General Fund	500,454.85
	00160	Electric Utility Fund	42,039.06
	00161	Utility Outlay Reserve Fund	15,002.94
	00164	Public Benefits Fund	3,673.72
	00170	Waste Water Utility Fund	856,875.86
	00171	Waste Wtr Util-Capital Outlay	29,878.20
	00172	Waste Water Capital Reserve	1,926.75
	00180	Water Utility Fund	2,537.87
	00181	Water Utility-Capital Outlay	86,887.95
	00210	Library Fund	6,241.83
	00211	Library Capital Account	21,054.24
	00260	Internal Service/Equip Maint	40,678.55
	00300	General Liabilities	3,568.17
	00310	Worker's Comp Insurance	12,360.00
	00321	Gas Tax	14,661.74
	00325	Measure K Funds	6,346.39
	00326	IMF Storm Facilities	50.00
	00340	Comm Dev Special Rev Fund	3,021.58
	00345	Community Center	11,409.56
	00346	Recreation Fund	14,709.63
	00410	Bond Interest & Redemption	1,137,267.32
	00501	Lcr Assessment 95-1	1,393.51
	01211	Capital Outlay/General Fund	186.96
	01212	Parks & Rec Capital	84,725.14
	01214	Arts in Public Places	18,620.00
	01218	IMF General Facilities-Adm	45,821.39
	01241	LTF-Pedestrian/Bike	4,931.70
	01250	Dial-a-Ride/Transportation	6,795.47
	01252	Transit-Prop. 1B	17,735.03
	01410	Expendable Trust	14,871.57
Sum			3,005,726.98
	00184	Water PCE-TCE-Settlements	2,839.72
	00190	Central Plume	1,107.84
Sum			3,947.56
Total for Week			
Sum			3,009,674.54

Accounts Payable
Council Report

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Date - 10/20/09
Amount

As of Thursday	Fund	Name	Amount
10/08/09	00100	General Fund	410,457.60
	00160	Electric Utility Fund	27,445.98
	00161	Utility Outlay Reserve Fund	3,326.49
	00164	Public Benefits Fund	9,568.84
	00166	Solar Surcharge Fund	14,976.00
	00170	Waste Water Utility Fund	52,161.82
	00171	Waste Wtr Util-Capital Outlay	3,658.75
	00172	Waste Water Capital Reserve	13,214.65
	00180	Water Utility Fund	3,617.56
	00181	Water Utility-Capital Outlay	528.45
	00210	Library Fund	2,413.92
	00211	Library Capital Account	27,909.90
	00234	Local Law Enforce Block Grant	181.75
	00235	LPD-Public Safety Prog AB 1913	61.40
	00260	Internal Service/Equip Maint	11,802.25
	00270	Employee Benefits	419,549.82
	00300	General Liabilities	7,970.29
	00310	Worker's Comp Insurance	12,863.36
	00321	Gas Tax	743.19
	00325	Measure K Funds	1,333.89
	00326	IMF Storm Facilities	1,036.92
	00340	Comm Dev Special Rev Fund	194.88
	00345	Community Center	11,353.98
	00346	Recreation Fund	2,726.29
	01212	Parks & Rec Capital	300.00
	01250	Dial-a-Ride/Transportation	169,119.32
	01410	Expendable Trust	1,960.11
Sum			1,210,477.41
	00190	Central Plume	19,335.89
Sum			19,335.89
Total for Week			
Sum			1,229,813.30

Accounts Payable
Council Report

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Date - 10/20/09
Amount

As of Thursday	Fund	Name	Amount
10/15/09	00100	General Fund	761,828.02
	00160	Electric Utility Fund	54,027.20
	00164	Public Benefits Fund	4,598.90
	00170	Waste Water Utility Fund	202,795.72
	00172	Waste Water Capital Reserve	142.92
	00180	Water Utility Fund	8,851.67
	00181	Water Utility-Capital Outlay	848.99
	00210	Library Fund	1,721.76
	00260	Internal Service/Equip Maint	5,339.54
	00270	Employee Benefits	2,229.95
	00300	General Liabilities	992.50
	00321	Gas Tax	17,041.28
	00325	Measure K Funds	3,536.18
	00340	Comm Dev Special Rev Fund	2,852.04
	00345	Community Center	7,398.39
	00346	Recreation Fund	6,671.08
	00459	H U D	4,614.00
	00550	SJC Facilities Fees-Future Dev	5,994.38
	01211	Capital Outlay/General Fund	7,061.65
	01212	Parks & Rec Capital	250.66
	01214	Arts in Public Places	506.88
	01218	IMF General Facilities-Adm	2,700.00
	01250	Dial-a-Ride/Transportation	3,241.91
	01410	Expendable Trust	14,104.69
Sum			1,119,350.31
	00184	Water PCE-TCE-Settlements	210.00
	00190	Central Plume	6,269.50
Sum			6,479.50
Total for Week			
Sum			1,125,829.81

Council Report for Payroll

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Date 10/20/09

Payroll	Pay Per Date	Co	Name	Gross Pay
Regular	09/20/09	00100	General Fund	766,273.14
		00160	Electric Utility Fund	149,891.73
		00164	Public Benefits Fund	5,354.43
		00170	Waste Water Utility Fund	89,550.98
		00180	Water Utility Fund	1,711.36
		00210	Library Fund	29,059.07
		00235	LPD-Public Safety Prog AB 1913	2,620.25
		00260	Internal Service/Equip Maint	19,569.06
		00321	Gas Tax	45,023.60
		00340	Comm Dev Special Rev Fund	21,730.51
		00345	Community Center	27,105.14
		00346	Recreation Fund	50,714.38
		01250	Dial-a-Ride/Transportation	6,830.58
Pay Period Total:				
Sum				1,215,434.23



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CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Approve Minutes
a) October 7, 2009 (Regular Meeting)
b) October 20, 2009 (Shirtsleeve Session)

MEETING DATE: November 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: Approve the following minutes as prepared:
a) October 7, 2009 (Regular Meeting)
b) October 20, 2009 (Shirtsleeve Session)

BACKGROUND INFORMATION: Attached are copies of the subject minutes marked Exhibit A through B.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

Attachments

APPROVED: _____
Blair King, City Manager

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, OCTOBER 7, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of October 7, 2009, was called to order by Mayor Hansen at 6:30 p.m.

Present: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: Council Member Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

a) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Sean Angoco against City of Lodi Based on Personal Injury

b) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Roy Beams against City of Lodi Based on Personal Injury

C-3 Adjourn to Closed Session

At 6:30 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:45 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:00 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Items C-2 (a) and C-2 (b), settlement direction was given for both items.

A. Call to Order / Roll call

The Regular City Council meeting of October 7, 2009, was called to order by Mayor Hansen at 7:00 p.m.

Present: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent: Council Member Hitchcock

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Pastor Mark Price, St. Paul Lutheran Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations

a) Domestic Violence Awareness Month

Mayor Hansen presented a proclamation to Sheri Rizo, representing the San Joaquin County Women's Center – Lodi Office, proclaiming the month of October 2009 as "Domestic Violence Awareness Month" in the City of Lodi.

b) National Arts and Humanities Month (COM)

Mayor Hansen presented a proclamation to Jennifer Walth, Lodi Arts Commissioner, proclaiming the month of October 2009 as "National Arts and Humanities Month" in the City of Lodi.

D-3 Presentations - None

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Mayor Hansen made a motion, second by Council Member Mounce, approve the following items hereinafter set forth, except those otherwise noted, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

E-1 Receive Register of Claims in the Amount of \$3,146,304.67 (FIN)

Claims were approved in the amount of \$3,146,304.67.

E-2 Approve Minutes (CLK)

The minutes of September 15, 2009 (Shirtsleeve Session), September 16, 2009 (Regular Meeting), September 22, 2009 (Shirtsleeve Session), and September 29, 2009 (Shirtsleeve Session) were approved as written.

E-3 Receive the Report of the Sale of Surplus Equipment (PW)

Received the report of the sale of surplus equipment.

E-4 Approve Specifications and Authorize Advertisement for Bids for Continued Maintenance of Landscape Areas for 2010 Calendar Year (PW)

Approved the specifications and authorized advertisement for bids for continued maintenance of landscape areas for 2010 calendar year.

E-5 Approve Specifications and Authorize Advertisement for Bids for Street Sign-Making Equipment (PW)

Approved the specifications and authorized advertisement for bids for street sign-making equipment.

E-6 Adopt Resolution Approving Annual Purchase Order with D.C. Frost Associates, Inc., of

Walnut Creek, for Materials and Services Needed to Maintain Ultraviolet Disinfection System at White Slough Water Pollution Control Facility (\$308,180) (PW)

Adopted Resolution No. 2009-128 approving the annual purchase order with D.C. Frost Associates, Inc., of Walnut Creek, for materials and services needed to maintain ultraviolet disinfection system at White Slough Water Pollution Control Facility in the amount of \$308,180.

E-7 Adopt Resolution Approving Purchase Order with Cummins West, Inc., of San Francisco, for Purchase and Installation of Diesel Filters for Four City Vehicles (\$60,695) (PW)

Adopted Resolution No. 2009-129 approving the purchase order with Cummins West, Inc., of San Francisco, for purchase and installation of diesel filters for four City vehicles in the amount of \$60,695.

E-8 Adopt Resolution Approving Purchase of John Deere Loader from Pape Machinery, of French Camp, and Appropriating Funds (\$90,000) (PW)

Adopted Resolution No. 2009-130 approving the purchase of John Deere loader from Pape Machinery, of French Camp, and appropriating funds in the amount of \$90,000.

E-9 Adopt Resolution Authorizing Additional Task Order with Treadwell & Rollo Regarding PCE/TCE Cleanup and Appropriating Funds (\$27,500) (PW)

Adopted Resolution No. 2009-131 authorizing additional task order with Treadwell & Rollo regarding PCE/TCE cleanup and appropriating funds in the amount of \$27,500.

E-10 Adopt Resolution Awarding Contract for Professional Services for Grape Bowl All Weather Surface Project to Beals Alliance, of Sacramento (\$126,330), and Appropriating Funds (\$156,000) (PW)

This item was pulled for further discussion by Council Member Mounce.

Council Member Mounce stated she will not be voting in favor of the proposed item in order to be consistent with her previous voting record on the subject matter.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, adopt Resolution No. 2009-133 awarding the contract for professional services for the Grape Bowl all weather surface project to Beals Alliance of Sacramento and appropriating funds.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Mounce

Absent: Council Member Hitchcock

E-11 Adopt Resolution Awarding Contract for DeBenedetti Park (G-Basin) Storm Drain Improvements to Teichert Construction, of Stockton (\$362,168), Appropriating Funds (\$470,000), and Authorizing the City Manager to Execute an Incidental Take Minimization Measures for the Project (PW)

Adopted Resolution No. 2009-132 awarding the contract for DeBenedetti Park (G-Basin) Storm Drain Improvements to Teichert Construction, of Stockton, in the amount of \$362,168, appropriating funds in the amount of \$470,000, and authorizing the City Manager to execute an Incidental Take Minimization Measures for the project.

E-12 Accept Improvements under Contract for Lodi Public Library Entry Project (PW)

Accepted the improvements under contract for Lodi Public Library Entry Project.

E-13 Set Public Hearing for October 21, 2009, to Consider Amending an Ordinance Regarding the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and Adopt Resolution Setting the Development Fees for 2010 (CD)

Set public hearing for October 21, 2009, to consider amending an ordinance regarding the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan and adopt resolution setting the development fees for 2010.

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Vohanson Oskara spoke in regards to his concerns about the cost of water meters, excess spending, and the lack of general efforts to keep costs down for citizens.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Mounce reported on her attendance at the Annual League Conference stating travel and tourism in the City of Lodi are moving in the right direction, transportation dollars from the State are going to be an ongoing challenge, the water crises is hitting the State in the near future, and policy resolutions for the League included police response for youth parties and securitization of local dollars. She stated she will also be speaking with Council Members regarding the "Save Your City" efforts.

Council Member Johnson thanked everyone for the well wishes and support he received during his hip surgery.

Mayor Hansen reported on his attendance at the NCPA Executive meeting and specifically discussed ongoing implications from unfunded mandates, possible adjustments for sales tax projections, global warming, the cost of providing electricity, the Kohls' grand opening, the Bella Terra Plaza opening, and the new Holiday Inn Express ribbon cutting.

H. Comments by the City Manager on Non-Agenda Items

City Manager King reported that the Downtown Summit will be held on October 16, 2009 at 7:30 a.m. at Hutchins Street Square and the keynote speaker will be Michael Freedman. Mr. King discussed the visitor and business survey conducted to ascertain impressions of downtown and the format of the summit which is designed to foster thought and further discussion.

I. Public Hearings

I-1 Public Hearing to Consider Reallocation of Available Urban County Community

Development Block Grant and HOME Program Funding (CD)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider the reallocation of available Urban County Community Development Block Grant and HOME Program funding.

City Manager King briefly introduced the subject matter of the CDBG and HOME program funding.

Community Improvement Manager Wood provided a PowerPoint presentation regarding the reallocation of urban county CDBG and HOME program funding. Specific topics of discussion included the goal of expending funds in a timely manner, reallocation process, following policy for both City project funding and community project funding, sources for reallocated CDBG funding, total CDBG reallocation for \$152,741.73, next round of allocations in three to four months, City projects including alley drainage improvements and handicap replacement, community project for Salvation Army roof replacement, HOME program for housing rehabilitation and neighborhood stabilization project, Service First proposal, and funding recommendations for CDBG and HOME programs.

In response to Council Member Johnson, Mr. Sandelin stated approximately 25% of ramp replacement project is CDBG funded.

In response to Mayor Hansen, Mr. Wood stated housing rehabilitation is all funded with this program, there needs to be enough equity in the home for lending value, all housing rehabilitation programs are dormant in general, and no one has applied for the program at this point.

In response to Council Member Johnson, Mr. Wood stated Habitat for Humanity is becoming more active reinventing themselves and is currently working on a south Stockton project.

In response to Council Member Mounce, Mr. Wood stated the County is marketing the program, staff is making presentations at events, information was provided in the newspaper, the Improvement Committee is actively involved with the program, and the Loel Center may help as well.

In response to Council Member Mounce, Mr. Wood confirmed the tear down of an old Victorian home, stating two homes will be built on the lot with alley access to the garage and connection to the street. Mr. Wood confirmed the Planning Commission will review the project.

In response to Council Member Mounce and Mayor Hansen, Mr. Wood confirmed staff could move quickly on providing assistance to the Salvation Army for the roof replacement project.

In response to Council Member Johnson, Mr. Wood stated with the current contributions from the City of Lodi, City of Stockton, and the County, the Salvation Army project is approximately \$14,000 shy of the total funds needed for the project.

Mayor Hansen opened the public hearing to receive comments from the public.

Dan Williams, representing Salvation Army, stated approximately 54% of the individuals served by the organization are from Lodi. Mr. Williams stated the Salvation Army is seeking a total of \$39,500 from the City for the project and needs to move quickly in order for the project to be completed before the bad weather begins.

Robin Rushing spoke in favor of allocating money from the alley way drainage project to the

Salvation Army roof replacement project.

After receiving no further comment, Mayor Hansen closed the public hearing.

In response to Council Member Mounce, Mr. Sandelin stated the funding from the ramp replacement project could be allocated to the Salvation Army project and Public Works could receive an allocation during the next go around for the ramp replacements. Mr. King stated it is important to consider Council policy on funding for City-based projects when reallocating the funds.

Council Member Mounce and Mayor Hansen spoke in favor of reallocating the funds from the ramp replacement project to the Salvation Army roof replacement project.

In response to Council Member Johnson, Mr. Sandelin stated the current funding would cover the costs associated with three alley drainage improvements, the deadline to complete the project is May 30th, and both the alley and ramp projects will likely be done in Spring because of the preferred weather.

In response to Council Member Mounce, Mr. King stated the CDBG funds could be reallocated in January for the handicap ramp project.

Council Member Mounce made a motion, second by Mayor Hansen, adopt Resolution No. 2009-134 approving the reallocation of available Urban County Community Development Block Grant and HOME Program funding.

VOTE:

The above motion carried by the following vote:

Ayes: Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: Council Member Johnson

Absent: Council Member Hitchcock

I-2 Public Hearing to Consider Resolution Approving New Rates for Solid Waste Collection (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution approving new rates for solid waste collection.

City Manager King provided a brief introduction to the subject matter of the solid waste public hearing.

In response to Council Member Mounce, Mr. King stated the solid waste rates public hearing is subject to Proposition 218 requirements.

Public Works Director Sandelin provided a PowerPoint presentation regarding the solid waste rates public hearing. Specific topics of discussion included contract requirement, consumer price index, County landfill fees, net increase and monthly increase, and residential base rate comparison.

Mayor Hansen opened the public hearing to receive comments from the public.

Chris Gianulias spoke in protest of the proposed rates based on his concerns about commercial rates compared to the rest of the cities in the State of California, including Modesto and Sacramento. He also inquired about the contract expiration date.

Barbara Flockhart spoke in protest of the proposed rates based on her concerns regarding ability to pay by residents of Lodi and suggested charging Waste Management more for administration costs.

Wayne Knauf spoke in protest of the proposed rates based on his concerns regarding utilizing Bay Area CPI, landfill rate application, and lack of environmental efforts.

Robin Rushing spoke in protest of the proposed rates based on his concerns regarding raising all rates in general and the inability of residents to pay.

Michelle Martinez spoke in protest of the proposed rates based on her concerns regarding mailings, CPI index numbers, and rates compared with other cities.

Doug Henriett spoke in protest of the proposed rates based on his concerns regarding utilization of the Bay Area CPI and the protest process.

Jack Flockhart spoke in protest of the proposed rates based on his concerns regarding the process stating he received six notices.

In response to Mayor Hansen, Ms. Martinez stated other cities she compared included Lathrop, Manteca, Stockton and Tracy. In response to Mayor Hansen, Mr. Sandelin stated the 2.4% is correlated to the 80% CPI number.

After receiving no further comment from the public, Mayor Hansen closed the public hearing.

In response to Mayor Hansen, Mr. Sandelin stated the contract is up in 2016 and has a seven year option.

Tom Sanchez, representing Waste Management, specifically discussed the pay as you throw system and recycling, paying the lowest amount by recycling more, different cities having different services attached with the contract, State mandates in connection with recycling, not being aware of any complaints received by the Finance Department, the tree statement being based on paper and organic material recovered, residential rates as base rates for communities, community contributions, and free programs such as hazardous programs and electronic recycling.

In response to Mayor Hansen, Mr. Sanchez confirmed that citizens can directly recover recycling values.

In response to Council Member Johnson, Mr. Sandelin stated the Bay Area CPI is used because there is no Valley CPI. He stated only 80% of the CPI is assessed to give consideration for the differences between the Valley and the Bay Area.

In response to Council Member Johnson, Mr. Schwabauer stated the Proposition 218 process is created by the citizens of the State through Howard Jarvis and the resolution could still be adopted with Item No. 6 being stricken since it does not apply.

In response to Council Member Johnson, Mr. Schwabauer and Mr. King stated Waste Management is billed for services performed internally and as a precautionary measure in light of the uncertainty in the law, notification is provided to both the property owner and the rate payer.

In response to Mayor Hansen, Mr. Sandelin stated the landfills do not generally have a flat rate and the County assesses landfill rates every year for five years.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, adopt Resolution No. 2009-135 approving new rates for solid waste collection, excluding Item No. 6 of the Exhibit.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments - None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Adopt Resolution Awarding Professional Services Agreement to RMC Water and Environment, of Walnut Creek, for Water Meter Planning, Design, and Program Management Services Project (\$2,815,183) and Appropriating Funds (\$3,250,000) (PW)

City Manager King provided a brief introduction to the subject matter of the water meter program.

In response to Council Member Mounce, Mr. King stated the final date for installation of water meters is 2026.

Public Works Director Sandelin provided a PowerPoint presentation regarding the professional services agreement for water meter installation. Specific topics of discussion included policy review, estimated meter costs, accelerated meter program and implementation. payment options, funding, and professional services agreement overview.

In response to Council Member Mounce, Mr. Sandelin stated approximately \$35 Million was raised in the infrastructure account.

In response to Council Member Mounce, Mr. Sandelin stated the \$1,200 includes the connection from the street to the home and only the portion in the street is infrastructure.

In response to Mayor Hansen, Mr. Sandelin confirmed infrastructure costs for new development are passed on to the developer who incorporates it into the cost of the home.

In response to Council Member Johnson, Mr. Sandelin stated the hose bib connection to the front of the house includes the piping from the street and does not include the cost of the main.

In response to Council Member Mounce, Mr. Sandelin stated he is not sure of what other cities are doing a similar water meter installation program.

In response to Mayor Hansen, Mr. Sandelin confirmed that the water meter installation program is in response to inherent unfairness of the bedroom system.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated all mains smaller than six

inches would be moved to the front of the homes.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated the costs would include the tap at the main, plumbing, fixtures, radio transponder, meter and cover.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated the life of a meter is approximately 20 years and maintenance and replacement are typically covered in the rate structures. Mr. Sandelin stated both water and wastewater rates will be brought back to Council in the future.

In response to Mr. King, Mr. Schwabauer confirmed that the lateral is owned by the property owner and not the City.

In response to Mayor Hansen, Mr. Sandelin stated he has not seen a capital improvement set aside in the last 15 years.

In response to Mayor Hansen, Mr. Sandelin stated there will be a hardship program and refusal to pay will result in a lien which is placed on a property with Council approval.

In response to Mayor Hansen, Mr. Sandelin stated the property owner will have an option to spread the cost out over three years and the numbers are based on the assumption that most property owners will elect that option.

In response to Council Member Johnson, Mr. Sandelin stated a self-installation handbook will be brought back to Council although some properties will be restricted from using that option.

In response to Council Member Mounce, Mr. Sandelin stated connections in the back of the house will not have an option for self-installation, there are approximately 1,600 houses with connections in the back, and they are not necessarily on the east side of town. Mr. Sandelin stated water contamination is a greater concern for those connections.

In response to Mayor Pro Tempore Katzakian, Mr. Sandelin stated 1,600 homes out of 13,000 have a line that needs to come to the front because the pipe is less than six inches.

Barbara Flockhart spoke in opposition to the proposed item based on her concerns about the cost of outside consultants versus in-house staff. Mr. Sandelin stated three senior engineering staff were lost in the last budget cycle, there is an expertise needed in engineering design, and public outreach and data collection is not something that can be handled in-house.

Vohanson Oskara spoke in opposition to the proposed item based on his concerns about the costs of the project and consultants.

Eunice Frederick spoke in opposition to the proposed item based on her concerns about the costs associated with meter installation and fairness.

Robin Rushing spoke in opposition to the proposed item based on the costs of the project.

Jack Flockhart spoke in opposition to the proposed item based on his concerns regarding the cost and acceleration of the project.

Mike Matson, representing RMC Water and Environment, spoke in favor of the proposed project and specifically discussed the \$2.8 Million covering the compressed timeline, self-installation manual, straw man implementation plan for consistency with work already being done throughout the City, commitment to presence in the City to address community concerns, 21 miles of

pipeline drawings and installation plans, and the overall goal to be cost effective.

Council Member Mounce stated she cannot vote in favor of the proposed item because she fundamentally does not agree with passing on infrastructure costs to the people.

In response to Mayor Hansen, Mr. Sandelin stated the main leading up to the house is owned by the property owner and if the City did repairs, the property owner would be billed accordingly.

Council Member Johnson made a motion, second by Mayor Hansen, adopt Resolution No. 2009-136 awarding professional services agreement to RMC Water and Environment, of Walnut Creek, for Water Meter Planning, Design, and Program Management Services Project in the amount of \$2,815,183 and appropriating funds in the amount of \$3,250,000.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Mounce

Absent: Council Member Hitchcock

K-2 Provide Direction with Regard to Request by Council Member Mounce to Discuss Mobile Food Vendor Ordinance Pertaining to the Number of Vendors and Parking (CA)

City Manager King stated the item is being brought forward to assess if a majority of the Council would like staff to spend time on the matter.

Council Member Mounce stated she requested that the matter be brought forward and would specifically like to address a cap on the number of mobile food vendors in the City.

In response to Mayor Hansen, Mr. Wood stated staff received six new applications recently and fielded questions from someone who would like to develop a site for two vendors. Mr. Wood stated currently there are 21 lunch wagons operating within the City.

In response to Council Member Mounce, Mr. Wood stated the annual permits expire in December and a renewal is effective in January.

Council Member Mounce suggested mobile food vendor applications and modifications be addressed on a first come, first serve basis.

In response to Council Member Johnson, Mr. Wood stated he is not aware of complaints as to the activity of taco trucks per se. Council Member Johnson stated he would like to receive additional information as to how big the problem is before making changes.

Council generally agreed to receive more information on the subject matter and look at the possibility of a cap on the number of mobile food vendors in the City.

In response to Mayor Hansen, Mr. Wood stated there has been a proliferation of push carts which have yet to be licensed.

A brief discussion ensued between Council Member Mounce and Mr. Schwabauer regarding how many mobile food vendors should be allowed and the process associated with granting the permits and renewals.

K-3 Adopt Resolution Amending the Bylaws for the Greater Lodi Area Youth Commission and Directing the City Clerk to Post for One Adult Advisor Vacancy on the Commission (CLK)

City Manager King provided a brief overview of the current Youth Commission citing the lack of participation by the School Board and inconsistency between the bylaws and resolution.

In response to Mayor Hansen, Council Member Mounce stated the Youth Commission will continue to have contact with the School District through the Superintendant.

Council Member Mounce made a motion, second by Council Member Johnson, adopt Resolution No. 2009-137 amending the Bylaws for the Greater Lodi Area Youth Commission and directing the City Clerk to post for one Adult Advisor vacancy on the Commission.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

K-4 Reintroduce Ordinance Amending Lodi Municipal Code Title 16 - Subdivisions - Chapter 12, "Parcel Maps," and Chapter 16, "Final Maps" (PW)

Public Works Director Sandelin provided a brief overview of the reference related changes which necessitated the reintroduction of the ordinance.

Council Member Mounce made a motion, second by Council Member Johnson, reintroduce Ordinance No. 1824 amending Lodi Municipal Code Title 16 - Subdivisions - Chapter 12, "Parcel Maps," and Chapter 16, "Final Maps."

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 11:08 p.m., in memory of Charles "Charlie" Wolf, respected member of the community, who passed away on September 24, 2009.

ATTEST:

Randi Johl
City Clerk

**LODI CITY COUNCIL
SHIRTSLEEVE SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, OCTOBER 20, 2009**

The Shirtsleeve Session of Tuesday, October 20, 2009, was canceled due to a lack of a quorum.

ATTEST:

Randi Johl
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Accept the Quarterly Investment Report as Required by Government Code Section 53646

MEETING DATE: November 4, 2009

PREPARED BY: Deputy City Manager

RECOMMENDED ACTION: Accept the quarterly report of the City of Lodi pooled money investments as required by Government Code Section 53646 and the City of Lodi Investment Policy.

BACKGROUND INFORMATION: Government Code Section 53646 and the City of Lodi Investment Policy require that local agency treasurers submit a quarterly report on investments to the legislative body of the local agency.

The total of all invested funds as of the quarter ending September 30, 2009 is \$70,789,862.70
The average annualized return on all invested funds over the quarter has been 0.91%

FISCAL IMPACT: N/A

FUNDING AVAILABLE: As per attached report.

Jordan Ayers
Treasurer

Attachment

APPROVED: _____
Blair King, City Manager



**CITY OF LODI
INTERNAL SERVICES DEPARTMENT
BUDGET DIVISION**

September 30, 2009 INVESTMENT STATEMENT

Local Agency Investment Funds *	83.6% of Portfolio	
Average interest earnings as of 9-30-09	0.90%	
LODI	Local Agency Inv Fund (LODI)	35,276,991.03
LPIC	Local Agency Inv Fund (LPIC)	23,907,771.91
	Subtotal LAIF	59,184,762.94
 Certificates of Deposit	 0.1% of Portfolio	
SYS75 - matures 12/21/09	Bank of America (cost) 2.1% int.	100,000.00
	Subtotal CD	100,000.00
 Passbook/Checking Accounts	 16.3% of Portfolio	
Farmers & Merchants	demand account - no interest earnings	**731,428.63
Farmers & Merchants - Money Mkt.	0.91% interest earnings	2,565,565.01
Farmers & Merchants - Payroll	demand account - no interest earnings	50,515.61
Farmers & Merchants - Central Plume	demand account - no interest earnings	5,164.01
Farmers & Merchants - CP Money Mkt.	0.91% interest earnings	8,152,426.50
	Subtotal P/C Accts	11,505,099.76
	TOTAL	70,789,862.70

Based on the approved budget and to the extent the budget is adhered to, liquidity is available, and the City will be able to meet its expenditure requirements for the next six months. This portfolio is in compliance with the City of Lodi Investment Policy.

Kirk J Evans
Management Analyst

10/15/2009
Date

* In accordance with the terms of the Local Agency Investment Fund, invested funds may be utilized on the same day if transaction is initiated before 10:00 a.m.

** This amount was necessary in order to cover outstanding checks



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Accept Quarterly Report of Purchases Between \$5,000 and \$20,000

MEETING DATE: November 4, 2009

PREPARED BY: Kirk Evans, Management Analyst

RECOMMENDED ACTION: Accept quarterly report of purchases between \$5,000 and \$20,000 in accordance with Lodi Municipal Code §2.12.060.

BACKGROUND INFORMATION: During the 3rd calendar quarter of 2009, the following purchases were awarded. Background information for each purchase is attached as Exhibits A through AA

Exh	Date	Contractor	Project	Award Amt.
A	7/01/09	Transformer Services Inc	Replacement Oil for Killelea Bank #2	\$5,809.43
B	7/06/09	LC Action Police Supply	Bullet Proof Vests	\$6,095.63
C	7/07/09	Neil O Anderson & Associates	Grape Bowl Phase I Improvements	\$8,600.00
D	7/07/09	Trimble Navigation	GPS/GIS, 2008 Tremble Geo XH Handheld	\$8,568.44
E	7/09/09	Stella-Jones	Wood Poles for Electric Inventory	\$18,586.47
F	7/13/09	Transformer Services Inc	Repair Killelea Bank #1	\$16,234.00
G	7/20/09	Transformer Services Inc	Replacement Oil for Killelea Bank #1	\$5,809.43
H	7/20/09	Commerce Printing Services	The City of Lodi-Community Activity Guide/Fall/Winter 2009 Issue	\$8,700.00
I	7/20/09	GEXPRO	Wire for Electric Utility Inventory	\$9,037.13
J	7/20/09	Wesco Distribution	Service Boxes for Electric Utility	\$6,066.71
K	7/20/09	HD Supply-Benicia	Underground Parts for Electric Inventory	\$10,954.39
L	7/23/09	DC Frost Associates Inc	White Slough UV Lamp Replacement	\$8,860.69
M	7/23/09	DC Frost Associates Inc	White Slough UV Lamp Replacement	\$9,120.69
N	7/27/09	F & H Construction Inc	Lodi Station Parking Structure	\$19,838.00
O	7/29/09	Jensen Precast	Vault to Module Enclosure for Electric Inventory	\$8,345.48
P	8/10/09	Kortick Manufacturing	Overhead Parts for Electric Inventory	\$5,132.49
Q	8/10/09	The Oeser Company	55' Wood Poles	\$14,272.35
R	8/11/09	Dell Marketing	Computers for Library	\$9,755.67
S	8/18/09	The Asher Company	Animal Shelter Kennel Flooring	\$7,061.65
T	8/24/09	Dataworks	Import Process for RMS System	\$5,437.50
U	8/24/09	West Coast Arborists Inc	Grape Bowl Tree Removal	\$6,800.00
V	8/27/09	Califa Group	3M Self Check Unlocking Devices	\$13,423.63
W	9/02/09	Interstate Truck Center	Install DPM Filter on Vehicle 09-012	\$16,234.69
X	9/08/09	Paragon Pools	Swimming Pool/Wading Pool Drain Cover Conversion Project	\$5,600.00
Y	9/14/09	Kortick Manufacturing	Overhead Parts for Electric Inventory	\$8,326.62
Z	9/23/09	Full Compass Systems	The City of Lodi Theater Equipment Update	\$6,152.26
AA	9/24/09	Pacific Products & Services	Equipment Replacement	\$6,715.08

Approved: _____

Blair King, City Manager

FISCAL IMPACT:

Varies by project. All purchases were budgeted in the 2009-10 Financial Plan.

FUNDING:

Funding as indicated on Exhibits.

Kirk Evans, Management Analyst

EXHIBIT A

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Replacement Oil for Killelea #2 Bank
DEPARTMENT: Electric Utility
CONTRACTOR Transformer Services Inc
AWARD AMOUNT: \$5,809.43
DATE OF RECOMMENDATION: July 1, 2009

BIDS OR PROPOSALS RECEIVED:

Transformer Services Inc.

\$5,809.43

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

On Wednesday June 24, 2009 a sudden failure of Load Tap Changer (LTC) is detected. On Thursday June 26, 2009 the Substation Tech. and the Operation Supervisor further analyzed the problem and confirmed that a transformer service company with the proper tools and kits was required to fix the problem. As the result, the transformer with the faulted LTC has been taken out of service. All seven feeders in Killelea Substation are fed from one transformer at this moment. The triple digit temperature means that we cannot stay with the existing situation. The faulted temperature has to be put back into service as soon as possible. The more time we stay with the existing situation, the more likely the second transformer will fail. Time is the prime factor in this case. To save time and expedite the maintenance of the LTC a P.O. was prepared to Transformer Service Inc. directly without bidding. This company is the one who did the maintenance of the transformer, last year as a sub contractor to Power Engineering during Testing and Commissioning of the Killelea rehabilitation Project. The company is on site performing the repair. The moving contact of the LTC has to be replaced; however before replacement of it, the oil has to be replaced with a cost of \$5,388.74

FUNDING: 160652.7335

Prepared by: Allen Aadland

Title: Senior Power Engineer

Purchase Order 18642

EXHIBIT B

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Bulletproof Vests

DEPARTMENT: Police

CONTRACTOR LC Action

AWARD AMOUNT: \$6,095.63

DATE OF RECOMMENDATION: July 6, 2009

BIDS OR PROPOSALS RECEIVED:

LC Action

\$6,095.63

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

LC Action has been our provider of bulletproof vests for the past four years, has competitive pricing, and purchases made qualify for the Office of Justice vest replacement program.

FUNDING: 101031.7306

Prepared by: David Main

Title: Chief of Police

Reviewed
by: _____

Purchase Order No.: 18656

EXHIBIT C

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Grape Bowl Phase I Improvements
DEPARTMENT: Parks and Recreation Department
CONTRACTOR Neil O' Anderson and Associates
AWARD AMOUNT: \$8,600.00
DATE OF RECOMMENDATION: July 7, 2009

BIDS OR PROPOSALS RECEIVED:

Neil O' Anderson and Associates	\$8,600.00
Wallace Kuhl and Associates	\$8,750.00
Kleinfelder Engineering	\$8,825.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The scope of work was to drill 8 exploratory test borings, obtain field and laboratory test programs and make recommendations for flatwork, grading, foundations, synthetic turf, excavations at stadium buildings and seismic criteria for the project noted above. The funding is through the Grape Bowl project account.

FUNDING: 1212809.1836.2400

Prepared by: Steve Virrey

Title: Parks Project Coordinator

Reviewed
by: _____

EXHIBIT D

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: GPS/GIS, 2008 Tremble Geo XH Handheld

DEPARTMENT: Electric Utility Department

CONTRACTOR Trimble Navigation C/O Electronic Data
Solutions

AWARD AMOUNT: \$8,568.44

DATE OF RECOMMENDATION: July 15, 2009

BIDS OR PROPOSALS RECEIVED:

2008 Trimble Navigation C/O Electronic Data Solutions	\$8,568.44
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“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The purchase of GPS/GIS, 2008 Tremble Geo XH Handheld will be a move into the modern day Global Information System. In purchasing this equipment we will be able to create the foundation for Scada Automation, assistance in the design and layout of the new 60KV Line to the west, growth into the City’s surrounding area, maintenance and Smart Grid just to name a few. In addition, staying on the cutting edge of today’s technology with good tools equals a good end product.

FUNDING: 160612.7701 & 160612.7313

Prepared by: Carl Wohl

Title: Electrical Drafting Tech

Reviewed
by: _____

EXHIBIT E

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Wood Poles for Electric Inventory
DEPARTMENT: Electric Utility
CONTRACTOR Stella-Jones
AWARD AMOUNT: \$18,586.47
DATE OF RECOMMENDATION: July 9, 2009

BIDS OR PROPOSALS RECEIVED:

Stella-Jones	\$18,586.47
North Pacific Lumber	\$18,880.09
McFarland Cascade	\$19,278.12
Bell Lumber	\$20,054.59

“NO BID” or NO RESPONSE RECEIVED:

Nevada Wood Preserving

BACKGROUND INFORMATION & BASIS FOR AWARD:

These wood poles are for use on the City of Lodi’s electric System. They can be used for replacement of existing poles or in new construction. Stella-Jones was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

EXHIBIT F

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Repair Killelea Bank #1
DEPARTMENT: Electric Utility Department
CONTRACTOR Transformer Services Inc.
AWARD AMOUNT: \$16,234.00
DATE OF RECOMMENDATION: July 13, 2009

BIDS OR PROPOSALS RECEIVED:

Transformer Services Inc.

\$16,234.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

This is to repair the Load Tap Changer (LTC) in Killelea Bank #1. The defects that were found in Killelea Bank #1 came as a result of the failure in Killelea Bank #2. Transformer Services Inc. is the company that did the maintenance of the transformer last year as a subcontractor to Power Engineering during Testing and Commissioning of Killelea Rehabilitation Project.

FUNDING: 160652.7335

Prepared by: Allen Aadland

Title: Senior Power Engineer

Reviewed
by: _____

EXHIBIT G

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Replacement Oil for Killelea Bank #1
DEPARTMENT: Electric Utility Department
CONTRACTOR Transformer Services Inc.
AWARD AMOUNT: \$5,809.43
DATE OF RECOMMENDATION: July 20, 2009

BIDS OR PROPOSALS RECEIVED:

Transformer Services Inc.

\$5,809.43

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

This is to repair the Load Tap Changer (LTC) in Killelea Bank #1. The defects that were found in Killelea Bank #1 came as a result of the failure in Killelea Bank #2. Transformer Services Inc. is the company that did the maintenance of the transformer last year as a subcontractor to Power Engineering during Testing and Commissioning of Killelea Rehabilitation Project. The oil has to be replaced at a cost of \$5,388.74

FUNDING: 160652.7335

Prepared by: Allen Aadland

Title: Senior Power Engineer

Reviewed
by: _____

EXHIBIT H

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: The City of Lodi-Community Activity Guide/Fall/Winter 2009 Issue

DEPARTMENT: Division of Arts & Culture/Community Center & Parks & Recreation Department

CONTRACTOR Commerce Printing

AWARD AMOUNT: \$8,700.00

DATE OF RECOMMENDATION: July 20, 2009

BIDS OR PROPOSALS RECEIVED:

Commerce Printing Complete Job	\$8,700.00
Folgers Graphics Complete Job	\$8,766.34
Certified Ad Services Does not include all aspects of the job.	\$8,499.63

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Commerce Printing offers a complete production and a high quality product at the lowest competitive price.

FUNDING: 108026.7301

Prepared by: Diane C. Amaral

Title: Program Coordinator

Reviewed
by: _____

EXHIBIT I

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Wire for Electric Inventory

DEPARTMENT: Electric Utility

CONTRACTOR GEXPRO

AWARD AMOUNT: \$9,037.13

DATE OF RECOMMENDATION: July 21, 2009

BIDS OR PROPOSALS RECEIVED:

GEXPRO	\$9,037.13
Intraline Inc	\$12,336.60
HD Supply Benicia	\$13,898.25
General Pacific	\$44,381.60

“NO BID” or NO RESPONSE RECEIVED:

Rexel Norcal Valley

BACKGROUND INFORMATION & BASIS FOR AWARD:

This wire is for use on the City of Lodi’s Electric System. The wire can be used for replacement of existing wire or in new construction. GEXPRO was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

EXHIBIT J

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Service Boxes for Electric Inventory
DEPARTMENT: Electric Utility
CONTRACTOR Wesco Distribution
AWARD AMOUNT: \$6,066.71
DATE OF RECOMMENDATION: July 21, 2009

BIDS OR PROPOSALS RECEIVED:

Wesco Distribution	\$6,066.71
GEXPRO	\$7,589.45

“NO BID” or NO RESPONSE RECEIVED:

Rexel Norcal Valley
HD Supply Benicia
HD Supply Portland
General Pacific
Intraline Inc

BACKGROUND INFORMATION & BASIS FOR AWARD:

These service boxes are for use on the City of Lodi’s Electric System. The service boxes can be used for replacement of existing boxes or in new construction. Wesco Distribution was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

EXHIBIT K

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Underground Parts for Electric Inventory
DEPARTMENT: Electric Utility
CONTRACTOR HD Supply-Benicia
AWARD AMOUNT: \$10,954.39
DATE OF RECOMMENDATION: July 21, 2009

BIDS OR PROPOSALS RECEIVED:

HD Supply Benicia \$10,954.39

“NO BID” or NO RESPONSE RECEIVED:

Rexel Norcal Valley
Wesco Distribution
HD Supply Portland
General Pacific
Intraline Inc
GEXPRO

BACKGROUND INFORMATION & BASIS FOR AWARD:

These underground parts are for use on the City of Lodi’s Electric System.
These underground parts can be used for replacement of existing parts or in new construction. HD Supply-Benicia was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

Purchase Order No.: 18709

EXHIBIT L

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: White Slough UV System Replacement Parts
DEPARTMENT: Public Works
CONTRACTOR DC Frost Associates Inc.
AWARD AMOUNT: \$8,860.69
DATE OF RECOMMENDATION: July 23, 2009

BIDS OR PROPOSALS RECEIVED:

Dc Frost & Associates Inc

\$8,860.69

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The listed items are significant components used in the UV disinfection system for the treated wastewater before it is discharged to Dredger Cut or used by our customers (NCPA and San Joaquin Vector Control District). DC Frost Associates Inc. are the manufactures representatives for Trojan Technologies Inc. who is the manufacture of our UV system and the sole supplier of all the parts utilized in their system. The miscellaneous UV parts being purchased are an ongoing maintenance need to maintain proper operations and maintenance of the system. This purchase is mission critical to minimize discharge violations. Future purchases will follow as parts are needed to maintain the system. These replacement costs have been anticipated and are included in the 2009-2010 Wastewater Budget.

FUNDING: 170403.7331

Prepared by: Del Kerlin

Title: W.T. Superintendent

Reviewed
by: _____

EXHIBIT M

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: White Slough UV System Replacement Parts

DEPARTMENT: Public Works

CONTRACTOR DC Frost Associates Inc.

AWARD AMOUNT: \$9,120.69

DATE OF RECOMMENDATION: July 23, 2009

BIDS OR PROPOSALS RECEIVED:

Dc Frost & Associates Inc

\$9,120.69

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The listed items are significant components used in the UV disinfection system for the treated wastewater before it is discharged to Dredger Cut or used by our customers (NCPA and San Joaquin Vector Control District). DC Frost Associates Inc. are the manufactures representatives for Trojan Technologies Inc. who is the manufacture of our UV system and the sole supplier of all the parts utilized in their system. The miscellaneous UV parts being purchased are an ongoing maintenance need to maintain proper operations and maintenance of the system. This purchase is mission critical to minimize discharge violations. Future purchases will follow as parts are needed to maintain the system. These replacement costs have been anticipated and are included in the 2009-2010 Wastewater Budget.

FUNDING: 170403.7331

Prepared by: Del Kerlin

Title: W.T. Superintendent

Reviewed
by: _____

EXHIBIT N

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Lodi Station Parking Structure
DEPARTMENT: Public Works-Transit
CONTRACTOR F & H Construction
AWARD AMOUNT: \$19,838.00
DATE OF RECOMMENDATION: July 27, 2009

BIDS OR PROPOSALS RECEIVED:

F & H Construction

\$19,838.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

F & H Construction is the original contractor for the Parking Structure. They are familiar with the facility structure and electrical system. They have agreed to pay ½ of the cost for the mold remediation work. The remainder of the cost is to install roof vents to prevent mold from forming again in the future.

FUNDING: 2009-2010 CIP Budget Facility Upgrades

Prepared by: Gary Wiman

Title: Construction Project Manager

Reviewed
by: _____

Purchase Order No.: 18729

EXHIBIT O

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Vault to Module Enclosure for Electric Inventory

DEPARTMENT: Electric Utility

CONTRACTOR Jensen Precast

AWARD AMOUNT: \$8,345.48

DATE OF RECOMMENDATION: July 29, 2009

BIDS OR PROPOSALS RECEIVED:

Jensen Precast

\$8,345.48

“NO BID” or NO RESPONSE RECEIVED:

Utility Vault/Oldcastle

BACKGROUND INFORMATION & BASIS FOR AWARD:

These vault to module enclosure adaptors are for use on the City of Lodi's Electric System. The vault to module enclosure adaptors can be used for replacement of existing parts or in new construction. Jensen Precast was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

EXHIBIT P

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Overhead Electric Utility Inventory
DEPARTMENT: Electric Utility
CONTRACTOR Kortick Manufacturing
AWARD AMOUNT: \$5,132.49
DATE OF RECOMMENDATION: August 10, 2009

BIDS OR PROPOSALS RECEIVED:

Kortick Manufacturing Company \$5,132.49
Bid all the items on the Purchase Order

“NO BID” or NO RESPONSE RECEIVED:

General Pacific, Wesco, and HD Supply Portland
Bid on some but not all of the items.

BACKGROUND INFORMATION & BASIS FOR AWARD:

These items are for use on the City of Lodi’s Electric System. The items can be used for replacement of existing material or in new construction. Kortick Manufacturing Company is the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

EXHIBIT Q

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: 55' Wood Poles
DEPARTMENT: Electric Utility
CONTRACTOR The Oeser Company
AWARD AMOUNT: \$14,272.35
DATE OF RECOMMENDATION: August 10, 2009

BIDS OR PROPOSALS RECEIVED:

The Oeser Company	\$14,272.35
North Pacific Lumber	\$18,173.22
McFarland Cascade	\$16,379.93
Bell Lumber Company	\$15,825.30
Stella-Jones	\$16,305.98

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

These wood poles are for use on the City of Lodi's Electric System. The wood poles can be used for replacement of existing poles or in new construction. The Oeser Company was the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

EXHIBIT R

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Purchase of ten Dell Computers of Public Access

DEPARTMENT: Library

CONTRACTOR Dell Marketing LP

AWARD AMOUNT: \$9,755.67

DATE OF RECOMMENDATION: August 11, 2009

BIDS OR PROPOSALS RECEIVED:

Dell Marketing

\$9,755.67

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The Library Board of Trustees authorized the purchase of eight Dell OptiPlex computers enhanced with WiFi cards. These computers are for Public Use. The funding is from the Private Sector Trust Fund.

FUNDING: 2121801 Private Sector Trust Fund

Prepared by: Nancy C. Martinez

Title: Library Services Director

Reviewed
by: _____

Purchase Order No.: 18758

EXHIBIT S

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Animal Shelter Kennel Flooring

DEPARTMENT: Police

CONTRACTOR Asher Company

AWARD AMOUNT: \$7,061.65

DATE OF RECOMMENDATION: August 17, 2009

BIDS OR PROPOSALS RECEIVED:

Asher Company	\$7,061.65
The Floorman	\$6,500.00
C & L Coatings, Inc	\$36,890.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Asher Company completed flooring in the cat room at the Animal Shelter in March 2009. Due to the quality of their work, and to ensure we maintain the same flooring throughout the facility we are recommending Asher be awarded the contract.

FUNDING: 1211016.1820

Prepared by: Jeanie Biskup

Title: Support Services Manager

Reviewed
by: _____

EXHIBIT T

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Import Process for RMS System
DEPARTMENT: Police
CONTRACTOR DATAWORKS
AWARD AMOUNT: \$5,437.50
DATE OF RECOMMENDATION: August 24, 2009

BIDS OR PROPOSALS RECEIVED:
NA

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

DATAWORKS is the sole provider to provide import process for the Sungard RMS System. Integration and installation is included

FUNDING: 1211381.1836.2300

Prepared by: J Biskup

Title: Support Services Manager

Reviewed
by: _____

Purchase Order No.: 18791

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Grape Bowl Tree Removals
DEPARTMENT: Parks and Recreation
CONTRACTOR West Coast Arborist, Inc.
AWARD AMOUNT: \$6,800.00
DATE OF RECOMMENDATION: August 24, 2009

BIDS OR PROPOSALS RECEIVED:

West Coast Arborist, Inc.	\$6,800.00
Berndt's Tree Service	\$7,000.00
Grover Tree Service	\$7,500.00

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Park staff was instructed to have all trees and other vegetation removed from the top of the berm down to the football field level in preparation of Phase I ADA improvement project.

FUNDING: 1212809 Grape Bowl Phase I ADA Improvements

Prepared by: Steve Dutra

Title: Park Superintendent

Reviewed
by: _____

EXHIBIT V

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: 3M Self Check Unlocking Devices
DEPARTMENT: Library
CONTRACTOR CALIFA
AWARD AMOUNT: \$13,423.63
DATE OF RECOMMENDATION: September 23, 2009

BIDS OR PROPOSALS RECEIVED:
CALIFA \$13,423.63

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Califa is a non-profit organization pooling library orders to pass discounted pricing on to member libraries. Lodi Public Library's membership in Califa is paid through its membership in the 49-99 Cooperative Library System. To optimize the usage of the library's self checkout machines while protecting the collection against theft, library media formats such as CDs and DVDs need special cases that can be unlocked by the self check out station. These unlocking devices are sole source through 3M and discounted through Califa.

FUNDING: 211807

Prepared by: Nancy Martinez

Title: Library Services Director

Reviewed
by: _____

EXHIBIT W

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Install DPM Filter on Vehicle 09-012
DEPARTMENT: Electric Utility
CONTRACTOR Interstate Truck Center
AWARD AMOUNT: \$16,234.69
DATE OF RECOMMENDATION: 09/02/09

BIDS OR PROPOSALS RECEIVED:

Cummins West (Horizon)	\$15,173.75
Emissions Retrofit Group (Horizon)	\$16,008.75
Interstate Truck Center (Thermo Cat)	\$16,234.69

“NO BID” or NO RESPONSE RECEIVED:

n/a

BACKGROUND INFORMATION & BASIS FOR AWARD:

The City of Lodi is required to meet the CARB Fleet Rule 2009 Requirements. CARB has only two verified DPM filters to retrofit this vehicle. (Cleaire Horizon and Thermo Cat) EUD and Fleet Services recommend Thermo Cat be installed to meet compliance. The Thermo CA requires no actions from the operator and does not require 208 volt outlet to be installed

FUNDING: 160602.7333

Prepared by: Kevin Bell

Title: Utility Rate Analyst

Reviewed by: _____

EXHIBIT X

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Swimming Pool/Wading Pool Drain Cover Conversion Project

DEPARTMENT: Parks and Recreation

CONTRACTOR Paragon Pools

AWARD AMOUNT: \$5,600.00

DATE OF RECOMMENDATION: August 24, 2009

BIDS OR PROPOSALS RECEIVED:

Paragon Pools	\$5,600.00
Aqua Pool & Spa	\$5,500.00
Leslie's Pool Supplies	\$5,090.96

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

The Virginia Graeme Baker Pool and Spa Safety Act requires the Blakely Park pools and the Lodi Lake wading pool to be retro-fitted with equipment that meet the mandatory Federal requirements for entrapment avoidance. Contractor will be required to obtain a permit from the San Joaquin County Environmental Health Department for this project. The permit process will require a work plan submitted for review and approval prior to work commencing.

FUNDING: 107521.7323

Prepared by: Steve Dutra

Title: Park Superintendent

Reviewed
by: _____



Lodi Parks and Recreation Department
The Benefits are Endless

MEMORANDUM

To: Jim Rodems, Interim Park and Recreation Director
From: Steve Dutra, Park Superintendent
Date: August 27, 2009
Subject: **Swimming and Wading Pool Drain Cover Conversion Project**

Recently the Parks Division became aware of new federal requirements for suction entrapment avoidance for swimming and wading pools. The Virginia Graeme Baker Pool and Spa Safety Act is intended to promote the safe use of pools.

The San Joaquin County Environmental Health Department has oversight and enforcement responsibility in regards to this Act. Currently County staff is in the education mode regarding this new requirement. No enforcement has yet been levied by the County.

Based on our research of Virginia Graeme Baker, conversation with contractors and County Health Department staff, all three of our facilities require some form of conversion to meet entrapment avoidance standards.

Several contractors were initially contacted, invited individually to the three facilities for site inspections and offered to submit quotes. Three qualified contractors have submitted quotes for work that they believe will satisfy the federal requirements within the Virginia Graeme Baker Pool and Spa Safety Act. All work performed by the successful bidder will receive prior approval of the County Environmental Health Department. County Health will issue a work permit once a work plan is submitted, reviewed and approved. The permit will not be signed off until the completed work is inspected and approved by County Health Department staff.

Paragon Pools of Woodbridge, Aqua Pool & Spa of Manteca and Leslie's Pool Supplies of Sacramento have submitted written quotes. All three vendors have previous experience with this type of work.

Though Paragon Pools is not the low bidder, staff recommends that Paragon Pools perform the necessary work at all three facilities. This recommendation is based on the fact that the other two vendors were not as familiar with the federal regulations, omitted necessary work that should be performed and had the most complete recommended plan of action for the tasks at hand.

With your support, a purchase order will be generated for Paragon Pools of Woodbridge in the amount of \$6,200.00.

Park staff has informed the Recreation Division of this drain cover conversion project. We expect an end of the season date from Grace within one work week of this memo. Once the facility closure date is finalized with her input, a work schedule will be drafted. Once the work schedule is finalized with the contractor and the County Health Department, we will notify department personal of the schedule.

I look forward to your direction on this recommendation.

EXHIBIT Y

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Overhead Electric Utility Inventory

DEPARTMENT: Electric Utility

CONTRACTOR Kortick Manufacturing

AWARD AMOUNT: \$8,326.62

DATE OF RECOMMENDATION: September 14, 2009

BIDS OR PROPOSALS RECEIVED:

Kortick Manufacturing Company \$8,326.62
Bid all the items on the Purchase Order

“NO BID” or NO RESPONSE RECEIVED:

General Pacific, HD Benicia, and HD Supply
Portland
Bid on some but not all of the items.

BACKGROUND INFORMATION & BASIS FOR AWARD:

These items are for use on the City of Lodi’s Electric System. The items can be used for replacement of existing material or in new construction. Kortick Manufacturing Company is the low responsible bidder.

FUNDING: 160.1496

Prepared by: Randy Lipelt

Title: Buyer

Reviewed
by: _____

EXHIBIT Z

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: The City of Lodi-Theater Equipment Update
DEPARTMENT: Community Center
CONTRACTOR Full Compass Systems, LTD
AWARD AMOUNT: \$6,152.26
DATE OF RECOMMENDATION: September 23, 2009

BIDS OR PROPOSALS RECEIVED:

Full Compass Systems	\$6,152.26
Pro Acoustics	\$6,712.47
Zzounds	\$6,387.51
Sweetwater	\$9,666.65

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

Full Compass Systems is the low responsible bidder. They offer equipment for Professional audio, video and lighting for production, broadcast, entertainment, presentation, and home installation.

FUNDING: 345404.7719

Prepared by: Mandi Dumlao

Title: Administrative Clerk

Reviewed
by: _____

EXHIBIT AA

RECOMMENDATION FOR CONTRACT AWARD

PROJECT NAME: Streets & Drainage Small Equipment Replacement

DEPARTMENT: Streets & Drainage Division

CONTRACTOR Pacific Products & Services

AWARD AMOUNT: \$6,715.08

DATE OF RECOMMENDATION: September 24, 2009

BIDS OR PROPOSALS RECEIVED:

Pacific Products & Services	\$6,715.08
Rigel Products & Services	\$7,600.91
Capitol Barricade Safety & Sign	\$7,979.47

“NO BID” or NO RESPONSE RECEIVED:

BACKGROUND INFORMATION & BASIS FOR AWARD:

This is a piece of small hand held equipment used for the installation of sign posts for traffic control. Pacific Products & Services is the low bidder on the project.

FUNDING: 125080.7352 & 3215031.7352

Prepared by: Curt Juran

Title: Streets & Drainage Manager

Reviewed
by: _____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Allocate an Additional \$75,000 from the Lodi Public Benefits Program Fund for Use by the Lodi G2 Customer Rebate Program. (EUD)

MEETING DATE: November 4, 2009

PREPARED BY: Interim Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to allocate an additional \$75,000 from the Lodi Public Benefits Program fund for use by the Lodi G2 Customer Rebate Program.

BACKGROUND INFORMATION: In preparing the Fiscal Year 2009/10 budget, utility staff originally requested \$45,000 for the Lodi G2 Customer Rebate Program. However, with four months of the current fiscal year gone, the allocation for this program has been spent. In short, the response to this particular program has far exceeded any previous year's participation rate, with energy efficiency rebates being provided to 14 G2 commercial customers. Thirteen of these projects involved lighting retrofits, while the other involved the installation of shade screens on west- and south-facing windows. The projected energy savings from these 14 projects is 280,000 kilowatt-hours of electricity annually.

Utility staff has identified a minimum of five additional G2 customers eager to pursue energy efficiency projects. Staff is requesting that an additional \$75,000 in Lodi Public Benefit Program funding be allocated to the Lodi G2 Customer Rebate Program and be spent to accommodate the increased interest in this energy efficiency program. Funds would come from the state-mandated fund in which we set aside 2.85% of operating revenue for Public Benefits Programs. The expansion of the G2 Customer Rebate Program will use money in that fund that had not yet been designated for any other specific purpose.

FUNDING: 164604 – Lodi Public Benefits Program (\$75,000)

Jordan Ayers
Deputy City Manager/Internal Services Director

A handwritten signature in black ink, appearing to read "Kenneth A. Weisel".
Kenneth A. Weisel
Interim Electric Utility Director

Prepared By: Rob Lechner, Manager, Customer Service and Programs

KAW/RSL/1st

APPROVED: _____
Blair King, City Manager

RESOLUTION NO. 2009-

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE ALLOCATION OF \$75,000 FROM THE
LODI PUBLIC BENEFITS PROGRAM FUND TO CONTINUE
THE LODI G2 CUSTOMER REBATE PROGRAM

=====

WHEREAS, the City of Lodi Electric Utility has offered the Lodi G2 Customer Rebate Program for several years to commercial utility customers, and

WHEREAS, the program is designed to encourage the installation of various energy conservation measures to those commercial customers assigned to the published electric utility G2 rate, and

WHEREAS, the City of Lodi Electric Utility is now seeking to extend the program by providing an additional \$75,000 in rebate funds for G2 commercial customers;

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council hereby approves the allocation of \$75,000 to the Lodi G2 Customer Rebate Program, and authorizes the City Manager to allocate said funds for this energy conservation program.

Dated: November 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Approve Plans and Specifications and Authorize Advertisement for Bids for Water Main Replacement Program, Project No. 3

MEETING DATE: November 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Approve the plans and specifications for the Water Main Replacement Program, Project No. 3, and authorize advertisement for bids.

BACKGROUND INFORMATION: This project consists of installing approximately 6,890 linear feet of 6-inch and 8-inch water main, 142 new water services, and other incidental and related work, all as shown on the plans and specifications for "Water Main Replacement Program, Project No 3". The project boundary is shown on the attached Exhibit A.

This project has been in design for the past year and will be the last phase of the Water Main Replacement Program. The remainder of the planned water main replacements will be handled with the Citywide Water Meter Installation Program which is under contract with the City's consultant, RMC Water and Environment. Water meter installation will be included in this project. The cost of the service installation and water meter will be reimbursed by the property owners. The exact cost of the reimbursement will be presented to the Council at the time of the contract award.

As with the other Water Main Replacement Program projects, there are a number of new services (142 for this project) installed that support the future installation of water meters and usage-based billing for water and wastewater services. Each property owner receiving a new service as part of these projects will be billed in the future for the cost of the meter, box, plumbing and installation that is estimated to be \$200.

The plans and specifications are on file in the Public Works Department. The planned bid opening date is December 1, 2009.

FISCAL IMPACT: The money for this project is included in the Water Fund's FY 2009/10 budget.

FUNDING AVAILABLE: Water Fund Account 181

F. Wally Sandelin
Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer
FWS/LC/pmf
Attachment
cc: Purchasing Officer
Senior Civil Engineer Chang
Water Services Manager

APPROVED: _____
Blair King, City Manager

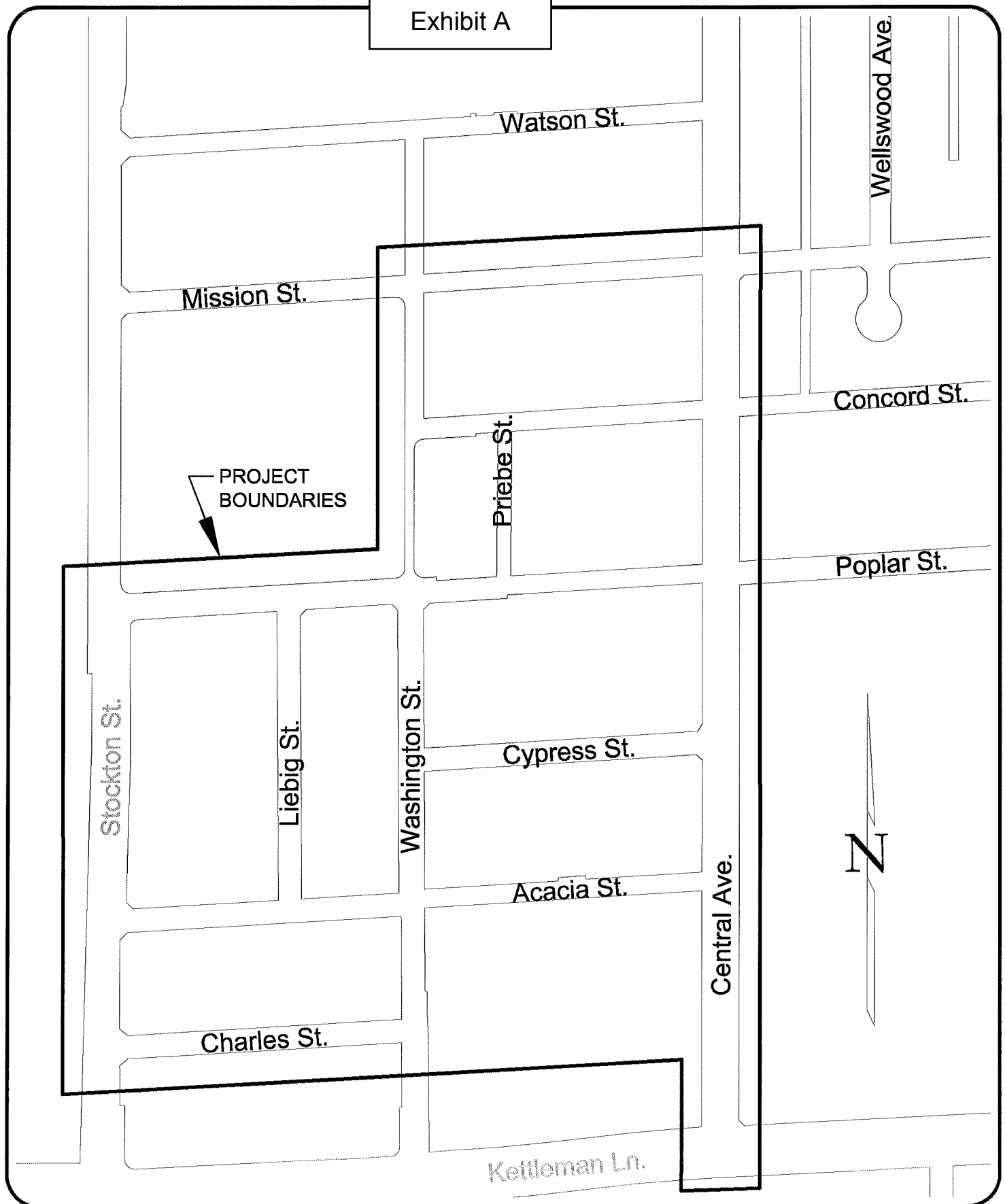


CITY OF LODI

PUBLIC WORKS DEPARTMENT

EASTSIDE PROJECT NO. 3 WATER MAIN REPLACEMENT PROJECT BOUNDARY

Exhibit A





CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing Additional Task Order with West Yost Associates for Fiscal Year 2009/10 to Provide Permit Assistance and Prepare Various Studies Required by the City's Wastewater Discharge Permit (\$392,300) and Appropriating Funds (\$435,000)

MEETING DATE: November 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution authorizing an additional task order in the amount of \$392,300 with West Yost Associates for Fiscal Year 2009/10 to provide permit assistance and prepare various studies required by the City's wastewater discharge permit and appropriating \$435,000 as shown below.

BACKGROUND INFORMATION: The City's wastewater discharge permit, issued by the State Central Valley Regional Water Quality Control Board (Board), includes requirements for a number of studies to be conducted and plans or reports to be developed on various aspects of the City's wastewater treatment operations. On August 20, 2008, Council authorized West Yost Associates (WYA) to proceed with preparation of work plans for various studies required by the permit. The work reflected in the attached proposal (Exhibit A) includes studies and reports required by the Board, along with assistance in meeting permit compliance requirements.

WYA has furnished the City with a combined proposal to respond to the permit requirements scheduled for FY 2009/10, including assisting City staff in regulatory program management.

The following includes a brief description of the permit-required tasks for this fiscal year; a more detailed description is included in the attached proposal.

Task 1: Project Management – This task includes project management-related activities, including general project coordination (\$20,000).

Task 2: State Board Petition Support – This task provides support to the City in negotiating the appropriate permit modifications with the Regional Board under the Regulatory Program Management Task (Task 4). This task is complete and will not require additional scope or budget (now or in the future) (\$0).

Task 3: San Joaquin Valley Air Pollution Control District Biosolids Rule Compliance – This task provides assistance in obtaining a variance to Biosolids Operations Rule 4565 (\$10,700).

APPROVED: _____

Blair King, City Manager

Task 4: Regulatory Program Management – This task includes meetings and coordination efforts with the Board regarding permitting issues. This task also involves guidance related to new regulatory requirements associated with the current permit (\$30,800).

Task 5: Land Application Monitoring Coordination – This task includes coordinating development of the City's monthly land application reports and the costs associated with the permit-required agronomist's review and certification (\$26,200).

Task 6: Compliance Studies – This task includes efforts needed to complete the Board-required Corrective Action/Method of Compliance Work Plan, Pollution Prevention Plan and Treatment Feasibility Study. These studies are required of all dischargers that receive permit compliance schedules for new effluent limitations (\$20,300).

Task 7: Toxicity Reduction Evaluation (TRE) – Though not expected, this task is to respond to a Board-required TRE in the event of a toxicity exceedence. TRE's are very time sensitive and require an intricate series of steps that are dependent on the outcome of initial findings (If a TRE is not needed, the budget for this item will not be expended.) (\$94,100).

Task 8: Title 22 Engineering Report – This task includes completion of a Title 22 Engineering Report due November 2009 to the Regional Board and the Department of Public Health. Title 22 Reports are required for all treatment plants that supply recycled water for other than agricultural purposes (\$48,500).

Task 9: Wintertime Irrigation Management Plan – Since approximately one-half of the City's land application areas are located within the 100-year flood plain of the Delta, this plan is required to minimize potential for winter flooding events to washout biosolids from the land application areas to the Delta. This plan was completed in December 2008. There are no direct actions needed to document implementation. This task is complete and will not require additional scope or budget (\$0).

Task 10: Temperature Study – This task includes implementation of the Temperature Study Work Plan approved June 2008. The purpose of this permit-required study is to establish receiving water temperature limitations that are protective of the beneficial uses (specifically aquatic life uses) identified for the receiving water (Dredger Cut). This study was initiated in July 2008, and a final report is due October 2010 (\$37,500).

Task 11: Industrial Influent Characterization Study – This task includes implementation of the Industrial Characterization Work Plan approved June 2008. This permit-required study is intended to characterize the wastewater influent collected by the industrial sewer system over a two-year period through quarterly influent monitoring. The data collected will be reviewed. The primary costs associated with this study will be laboratory related (\$3,400).

Task 12: Pond Freeboard Evaluation Study – This permit-required study is intended to evaluate the stability of the storage pond berms and to identify if a need exists to implement mitigation or control measures that may be necessary to prevent undesirable risks associated with berm failure or overtopping. This study work plan was approved by the Regional Board in July 2009 (\$40,000).

Task 13: Salinity Evaluation and Minimization Plan – This task includes implementation of the Salinity Evaluation and Minimization Plan that is required of all municipal dischargers of one million gallons per

November 4, 2009

Page 3

day or more in the Central Valley and is intended to identify sources of salinity in the City's domestic and industrial effluent (\$4,600).

Task 14: Background Groundwater Quality and Degradation Assessment Study – This permit-required study will be implemented in accordance with the Background Monitoring Well Work Plan approved June 2008 and is intended to establish local background groundwater conditions in an effort to quantify the threat to groundwater quality associated with the City's land application practices (\$49,500).

Task 15: Effluent Characterization Study – This task involves the completion of the Characterization Study Work Plan (\$6,700).

The estimated cost for this work is \$392,300. Staff suggests a contingency amount of approximately 10 percent to account for unforeseen issues, for a total appropriation of \$435,000.

FISCAL IMPACT: The studies' monitoring efforts are required in the City's permit and nonperformance would subject the City to significant fines. The costs associated with this work have been anticipated in the City's Wastewater funding requirements.

FUNDING AVAILABLE:	Requested Appropriation:	
	Wastewater Operating Fund (170403)	\$290,310
	Wastewater Capital Fund (172028)	<u>\$144,690</u>
	Total	<u>\$435,000</u>

Jordan Ayers
Deputy City Manager/Internal Services Director

F. Wally Sandelin
Public Works Director

FWS/CS/dsg

Attachment



October 2, 2009

Mr. Charles E. Swimley, Jr.
Water Services Manager
City of Lodi
1331 South Ham Lane
Lodi CA 95242

SUBJECT: Proposal for Engineering Services—NPDES Permit Assistance for
Fiscal Year 2009/2010

Dear Mr. Swimley:

West Yost Associates (WYA) appreciates the opportunity to present to you this letter proposal for engineering services related to ongoing assistance to the City of Lodi (City) in meeting the NPDES permit requirements for the Lodi Water Pollution Control Facility (WPCF).

The Regional Water Quality Control Board (Regional Board) adopted the final NPDES permit and associated Time Schedule Order (TSO) for the City's WPCF on September 14, 2007. The scope of work presented in this proposal includes the development of the NPDES permitting submittals that are anticipated beginning in September 2009 and continuing through the end of the July 2010 (hereinafter referred to as Fiscal Year 2009/2010, or FY 09/10).

Note that this proposal assumes that the City staff will complete all of the necessary monitoring needed to achieve the objectives of the tasks outlined in the Scope of Work, and that the City will contract directly with a certified laboratory for the completion of any necessary analytical efforts. Under the Regulatory Program Management task, WYA will provide support for coordinating these efforts with other regulatory needs.

SCOPE OF WORK

The following scope of work defines the detailed engineering service tasks related to ongoing assistance to the City in meeting the NPDES permit compliance requirements for the Lodi WPCF. These tasks include the following:

- Task 1: Project Management
- Task 2: State Board Petition Support
- Task 3: SJVAPCD Biosolids Rule Compliance
- Task 4: Regulatory Program Management
- Task 5: Land Application Monitoring Coordination

- Task 6: Compliance Studies (Method of Compliance Work Plan, Pollution Prevention Plan and Treatment Feasibility Study)
- Task 7: Toxicity Reduction Evaluation
- Task 8: Title 22 Report
- Task 9: Wintertime Irrigation Management Plan
- Task 10: Temperature Study
- Task 11: Industrial Influent Characterization Study
- Task 12: Pond Freeboard Study
- Task 13: Salinity Evaluation and Minimization Plan
- Task 14: Groundwater Background Analysis
- Task 15: Effluent and Receiving Water Characterization Study

Task 1. Project Management

Task 1 includes project management-related activities including general project coordination. In addition, to ensure continued achievement of consistently high quality work products, and in accordance with the WYA Quality Assurance/Quality Control (QA/QC) policy, a WYA staff member at the Principal Engineer level or higher will review significant work products. Under this task, brief descriptions of services performed will be included on monthly invoices.

The efforts needed during FY 09/10 under this task can only be estimated at this time, and the associated fee estimate presented in this letter proposal is based on WYA's knowledge of the City's current permitting concerns. If the proposed budget is not expended in the timeframe anticipated for this scope of services, it can be directed toward the completion of other efforts.

Task 2. State Board Petition Support

The State Water Resources Control Board (SWRCB) recently adopted an Order that remanded the City's permit back to the Regional Board for reconsideration of the Title 27 exemption applicable to the WPCF storage ponds and land application area. WYA will provide support to the City in negotiating the appropriate permit modifications with the Regional Board under the Regulatory Program Management Task (Task 4). Therefore, this task is complete and will not require additional scope or budget (now or in the future).

Tasks 3. SJVAPCD Biosolids Rule Compliance

In March 2007, the San Joaquin Valley Air Pollution Control District (SJVAPCD) adopted Biosolids Operation Rule 4565. This rule requires that the City implement additional controls for Volatile Organic Carbon (VOC) emissions from the City's biosolids land application practices. The City will not be able to comply with the SJVAPCD Biosolids Operation Rule. Therefore, the City will need to work with SJVAPCD staff to identify a compliance strategy and timeline that can be incorporated into a temporary variance.

The purpose of this task to provide assistance to the City, in obtaining a variance to Biosolids Operation Rule 4565. Additional efforts are assumed to not be needed at this time. The actual level of effort is uncertain. Therefore, a nominal fee has been assumed for this task. All work will be performed on a time and material basis. Monthly invoices will detail the efforts and costs. However, depending on the level of effort required, a scope and budget amendment may be necessary in the future.

Deliverable: SJVAPCD Variance Request Document.

Task 4. Regulatory Program Management

WYA anticipates that the City will continue to require ongoing assistance related to understanding general regulatory compliance issues and implementing the measures needed to achieve compliance. It is difficult to predict the level of effort needed for this task. Assistance under this task is anticipated to include one or more of the following items:

1. Working with City staff to understand the permit compliance requirements;
2. Maintaining and updating the attached implementation schedule for the compliance measures;
3. Developing presentations for City staff, Council, and/or other consultants outlining the regulatory compliance concerns;
4. Providing support to the City and the Regional Board in developing permit revisions in response to the recent SWRCB permit remand, modifying the land application organic loading limit in accordance with the recently completed Organic Loading Study, and modifying the effluent temperature requirements in accordance with the Temperature Study that is almost complete;
5. Reviewing permits and other regulatory guidance documents issued by the Regional Board and SWRCB that would be applicable to the WPCF;
6. Providing assistance to the City, as needed, for developing responses to Regional Board requests;
7. Providing assistance in developing semi-annual permit compliance progress reports (Due February 1, 2010 and August 1, 2010);
8. Coordinating efforts between all the studies and other planning-related issues;
9. Helping the City to develop monitoring programs;
10. Completing analyses of regularly collected monitoring data to identify potential future regulatory concerns;
11. Providing support to the City and the PCP Cannery in addressing food processing waste disposal issues; and/or
12. Attending and preparing for meetings to discuss the results of such activities outlined above.

The specific work efforts and deliverables under this task cannot reasonably be determined at this time, and the associated fee estimate presented in this letter proposal is based on WYA's knowledge of the City's current permitting concerns. All work will be performed on a time and material basis, and monthly invoices will detail the efforts and costs. Depending on the level of effort required, a scope and budget amendment may be necessary in the future. If the estimated fee is not expended in the timeframe anticipated for this scope of services, it may be directed toward the completion of other efforts. These tasks may also require support from our legal subconsultant, Somach, Simmons and Dunn (SSD), and a small budget has also been assumed for these efforts.

It will be critical that the City's regulatory compliance efforts are completed in coordination with Regional Board staff and other regulatory authorities. It is imperative that these agencies are in agreement with the study approach and the type and amount of information to be obtained from any given study. Therefore, this task also involves the participation of WYA staff and our subconsultants, as needed, in meetings with the appropriate regulatory agency staff. Meetings that may be required are as follows:

- September 2009: meeting with Regional Board staff to discuss the results of the Year 1 Pollution Prevention Plan and Industrial Influent Characterization Study monitoring;
- December 2009/January 2010: meeting with Regional Board staff to discuss the permit revisions needed in response to the SWRCB remand, to modify the land application organic loading limit in accordance with the recently completed Organic Loading Study; and to modify the effluent temperature requirements in accordance with the Temperature Study that is almost complete;
- December 2009/January 2010: meeting with Regional Board and Department of Public Health (DPH) staffs (likely separate meetings) to discuss the draft Title 22 Engineering Report;
- April 2010: meeting with Regional Board to discuss the Verification of Permit Compliance/Request for Flow Increase.

Other coordination meetings are also anticipated to be required.

Deliverable: Meeting Agenda and notes for up to five meetings with the City, the Regional Board and/or other regulatory authorities regarding the acceptability of the proposed Work Plans and other regulatory matters.

Administrative Draft February 2010 Semi-Annual Progress Report (Industrial Influent Characterization Study, Background Groundwater Quality and Degradation Assessment) for City Review. Final February 2010 Semi-Annual Progress Report for Regional Board Consideration.

Administrative Draft August 2010 Semi-Annual Progress Report (Pollution Prevention Plan, Corrective Action Plan) for City Review. Final August 2010 Semi-Annual Progress Report for Regional Board Consideration.

The administrative draft reports will be distributed in PDF format for review. Up to six (6) Bound copies of the revised version of the reports will be distributed to the Regional Board and City staff.

Task 5. Land Application Monitoring Coordination

This task involves providing the following items:

- Review the 2009 land application monitoring data and help with development of the required 2009 Annual Cropping and Irrigation Report and the 2009 Annual Biosolids Application Report;
- Review of the monthly land application reports;
- Coordination with City staff and tenant farmers regarding collection of required monitoring data during the 2010 irrigation season.

Deliverables: Administrative Draft 2009 Annual Land Management Report and 2009 Annual Biosolids Application Report. Final 2009 Annual Land Management Report and 2009 Annual Biosolids Application Report.

The administrative draft reports will be distributed in PDF format for review. Up to six (6) Bound copies of the revised version of the reports will be distributed to the Regional Board and City staff.

Task 6. Compliance Studies

The following compliance studies are required under the new NPDES permit:

- Corrective Action Plan/Method of Compliance Work Plan
- Pollution Prevention Plan
- Treatment Feasibility Study

This task includes the efforts that will need to be completed for these studies during FY 09/10.

Subtask 6.1. Corrective Action Plan/Method of Compliance Work Plan

WYA completed the Method of Compliance Work Plan (MOC Work Plan) in April 2008. Approval of the MOC Work Plan was provided by the Regional Board in a letter dated June 26, 2008. Implementation of the Work Plan requires support that will be provided under the Regulatory Program Management Task (Task 4), including the submittal of an Annual Progress Report on August 1, 2010, which will detail the progress that has been made toward achieving compliance. Therefore, this subtask is complete and will not require additional scope or budget (now or in the future).

Subtask 6.2. Pollution Prevention Plan

WYA completed the Pollution Prevention Plan Work Plan (PPP Work Plan) on behalf of the City in April 2008. Per Regional Board request, an addendum to the PPP Work Plan and an Initial Manganese PPP Study was submitted in August 2008. Approvals of these documents were provided by the Regional Board in a letter dated September 9, 2008. In accordance with the City's permit, a final PPP report is due to the Regional Board two years following approval of the Work Plan, which is September 2010.

In the recently submitted August 2009 Progress Report, WYA provided recommendations for additional PPP monitoring efforts that should be completed during Phase II (FY 09/10). The sampling locations, parameters and frequencies are detailed in that document. WYA anticipates that the City staff will complete all of the sample collection efforts required under the PPP Work Plan during FY 09/10. WYA also assumes that the City will contract directly with the analytical laboratory for the sample analysis.

WYA efforts during the PPP implementation Phase II (FY 09/10) will include review of the data collected during FY 09/10 under the PPP Work Plan and completion of the PPP Report. WYA completed a review of the PPP data collected during FY 08/09 under a previous project. Based on this analysis, there are limited PPP options available to the City. Therefore, the estimated budget for this task is based on the assumption that completion of the PPP report will not require a detailed analysis of potential pollution prevention activities. Additional discussion with Regional Board staff regarding the PPP efforts to date (planned for September 2009) could result in a modification to the proposed scope and budget.

An administrative draft PPP Report will be issued to the City for review and revision prior to submission of a draft report to the Regional Board staff for review. Following Regional Board review and comment, a final PPP Report will be developed (if needed).

Deliverables: Administrative Draft PPP Report for City Review; Draft PPP Report for Regional Board staff review; and a Final PPP Report. The administrative draft report will be distributed in PDF format for review. Up to six (6) bound copies of the revised version of the report will be distributed to the Regional Board and City staff.

Task 6.3 Treatment Feasibility Study

WYA completed the Treatment Feasibility Study Work Plan (TFS Work Plan) on behalf of the City in October 2008. Approval of the TFS Work Plan was provided by the Regional Board in a letter dated July 13, 2009. The NPDES permit provides the City with a two year timeline to complete the TFS Report from when the TFS Work Plan is approved by the Executive Officer. Therefore, this report is not due until July 2011.

The TFS Work Plan describes the efforts that will be completed by the City to examine the feasibility, costs and benefits of different treatment options that may be required to remove aluminum, ammonia, chlorodibromomethane, and dichlorobromomethane from the discharge. Specifically, the TFS Work Plan stated that the City will rely on data that are collected under the permitted Monitoring and Reporting program to verify that the compliance objectives have been

met following the completion of the recent WPCF upgrade project. Note that this monitoring will also be used to support the City's request for a flow increase to 8.5 million gallons per day.

Implementation of the Work Plan requires support that will be provided under the Regulatory Program Management Task (Task 4), including the submittal of an Annual Progress Report on August 1, 2010, which will detail the progress that has been made toward achieving compliance. Additional efforts under this subtask will not be needed during FY 09/10.

Task 7. Toxicity Reduction Evaluation

Roberson-Bryan Inc (RBI), in association with WYA, completed the Toxicity Reduction Evaluation Work Plan (TRE Work Plan) in January 2008. Approval of the TRE Work Plan was provided by the Regional Board in a letter dated June 26, 2008. Implementation of the TRE Work Plan will only be required should the WPCF exceed the TRE trigger outlined in the NPDES permit. This requirement applies to all NPDES dischargers. As detailed in the TRE Work Plan, the major items that may need to be included under a TRE are as follows:

- Whole Effluent Toxicity Testing Bioassay Evaluation;
- Information and Data Acquisition;
- Facility Operations and Performance Evaluation;
- Preparation of a Final TRE Action Plan;
- Toxicity Identification Evaluation (TIEs);
- Toxicity Source Evaluation and Control; and/or
- Preparation of a TRE Report.

The efforts needed during FY 09/10 are based on the assumption that the City will need to implement a Toxicity Reduction Evaluation (TRE) as presented in the TRE Work Plan. However, if the City's monitoring does not demonstrate toxicity in the WPCF effluent, a TRE will not be necessary. If the fee outlined in this letter proposal is not expended in the timeframe anticipated for this scope of services, the budget can be directed toward the completion of future efforts at the City's direction. On the other hand, the amount of services needed to complete a TRE cannot be accurately predicted at this time because the amount of effort needed for key steps in the process, and even the sequential steps in the process itself, are largely dictated by the outcome of the bioassays and the Toxicity Identification Evaluations (TIEs). The TIE may or may not initially be effective in identifying the constituent causing the toxicity that then needs to be controlled and initial TIE success can have a significant impact on costs. These outcomes cannot be known at this time. The amount of services needed for facility operations and performance evaluation is also dependent upon the amount of this task completed by City, which will likely be dependant on the timing and frequency of the toxicity exceedances. Therefore, the scope of work for this task is limited to the budget allocated in this letter proposal. In the event that a TRE requires services beyond that scoped and budgeted herein, WYA would, upon request, submit a separate proposal for additional services. The budget also assumes that the City will contract directly with the bioassay laboratory for all TRE bioassay and TIE analytical work.

In addition, because TREs are an intricate series of steps and assessments over time, with the exact nature of activities in latter tasks largely dictated by the outcome and findings in the initial tasks, the proper and efficient conducting of a TRE requires extensive technical oversight, coordination, and direction. Therefore, this task provides budget for such services as well as miscellaneous services provided during the TRE process not specifically covered under other the specific TRE items listed above.

Given their expertise, RBI would serve as the technical lead for this work. However, WYA will provide support and coordination in completing these efforts. Coordination meetings required in FY 09/10 in support of completing this task will be covered under the Regulatory Program Management Task (Task 4) described above.

Task 8. Title 22 Engineering Report

WYA completed the Title 22 Engineering Report Work Plan (Title 22 Work Plan) in April 2008. Approval of the Title 22 Work Plan was provided by the Regional Board in a letter dated June 18, 2008. The draft Title 22 Engineering Report is due to the Regional Board and DPH by November 3, 2009; and a final report is due within six (6) months of "approval" of the draft report.

The implementation phase of the Title 22 Work Plan was completed under the scope of work approved for FY 08/09 and included the following items:

- UV System Validation
- Review of Northern California Power Authority (NCPA) Facilities
- Coordination with DPH

WYA efforts during FY 09/10 will include completion of a Title 22 Engineering Report that satisfies the DPH requirements. An administrative Draft Title 22 Engineering Report will be issued to the City for review and revision prior to submission to the DPH and the Regional Board for review. Following DPH and Regional Board review and comment, a final Title 22 Engineering Report will be developed (if needed) and submitted to the Regional Board for inclusion in the City's permit record. Regional Board and DPH coordination meetings required over the next twelve months in support of completing this task will be covered under the Regulatory Program Management Task (Task 4) described above.

Deliverables: Administrative Draft Title 22 Engineering Report for City Review; Draft Title 22 Engineering Report for DPH and Regional Board staff review; and a Final Title 22 Engineering Report. The administrative draft report will be distributed in PDF format for review. Up to eight (8) bound copies of the revised version of the report will be distributed to the Regional Board, DPH, and City staff.

Task 9. Wintertime Irrigation Management Plan

WYA completed the Wintertime Irrigation Management Plan in December 2008. This document described the actions that will be taken by the City to minimize potential water quality impacts during flooding events that would cause washout of wastewater or biosolids from the land application area. There are no direct actions needed to document implementation of the Wintertime Irrigation Management Plan. Therefore, this task is complete and will not require additional scope or budget (now or in the future).

Task 10. Temperature Study

RBI, in association with WYA, completed the Temperature Study Work Plan for the White Slough WPCF Effluent and Downstream Water Bodies (Temperature Study Work Plan) in April 2008. Approval of the Temperature Study Work Plan was provided by the Regional Board in a letter dated June 26, 2008. The Temperature study was initiated on July 22, 2008. In accordance with the WDRs, the Temperature Study must be complete within two years of initiation, and a final study report is due within 90 days of completion of the study. Therefore, a final report is due no later than October 20, 2010. However, barring the determination that additional data collection is needed, it is anticipated that the Temperature Study report will be completed during FY 09/10.

The following specific services under this task will be provided during FY 09/10:

- Development and evaluation of appropriate numeric temperature limitations
- Preparation of a report summarizing the results of the study and the recommended limitations.

Given their expertise in this area, RBI will continue to serve as the technical lead for this work. WYA will provide support and coordination efforts during the completion of this study.

An administrative Draft Temperature Study Report will be issued to the City for review and revision prior to submission to the Regional Board staff for review. Following Regional Board review and comment, a final Temperature Study Report will be developed (if needed).

In addition, WYA/RBI will also participate in up to two (2) meetings with the City and/or Regional Board staff to discuss the recommendations provided in the Temperature Study Report. The City must also submit a Progress Report on February 1, 2009 detailing the status of the Temperature Study. Assistance will be provided by the WYA/RBI team for these efforts under the Regulatory Program Management Task (Task 4).

Deliverables: Administrative Draft Temperature Study Report for City Review; Draft Temperature Study Report for Regional Board staff review; and a Final Temperature Study Report. The administrative draft report will be distributed in PDF formats for review. Up to six (6) bound copies of the revised version of the report will be distributed to the Regional Board and City staff.

Task 11. Industrial Influent Characterization Study

WYA completed the Industrial Influent Characterization Study Work Plan (Industrial Characterization Work Plan) in April 2008. Approval of the Industrial Characterization Work Plan was provided by the Regional Board in a letter dated June 26, 2008. In accordance with the City's NPDES permit, the Industrial Characterization will occur over a two-year period, and a final report is due no more than 90 days following completion of the study. The study began in August 2008 and will end in August 2010, with the final report due November 2010.

In the recently submitted August 2009 Progress Report, WYA provided recommendations for monitoring efforts that should be completed during FY 09/10. The sampling locations, parameters and frequencies are detailed in that document. WYA anticipates that the City staff will complete all of the sample collection efforts during FY 09/10. WYA also assumes that the City will contract directly with the analytical laboratory for the sample analysis.

The scope of work for WYA efforts during FY 09/10 includes review of the data collected (it is anticipated that such data will be provided to WYA as it becomes available from the laboratory). The City will also need to submit a Progress Report on February 1, 2009, for which assistance will be provided under the Regulatory Program Management Task (Task 4). Additional efforts under this task will not be needed during FY 09/10.

Task 12. Pond Freeboard Evaluation Study

Wallace-Kuhl & Associates (WKA), in association with WYA, completed the City of Lodi Pond Study Geotechnical Engineering Work Plan and Implementation Schedule (Pond Study Work Plan) in October 2008. Approval of the Pond Study Work Plan was provided by the Regional Board in a letter dated July 13, 2009. In accordance with the City's NPDES permit, the Pond Freeboard Evaluation will occur over a two-year period, and a final report is due no more than 90 days following completion of the study. The study is planned to begin in September 2009 and the majority of data collection efforts will be completed over a several week period at this time. Continued monitoring of groundwater levels near the ponds will occur over an 18 month period following the completion of the initial field efforts. This schedule will ensure the study ends no later than September 2011.

The scope of work for WYA/WKA team during FY 09/10 includes the field exploration and laboratory analytical components of the Pond Study Work Plan. Given their expertise in this area, WKA will serve as the technical lead for the completion of these efforts. WYA will provide support and coordination efforts. These efforts are further described below.

Prior to the planned subsurface field exploration, WKA will perform the following tasks:

1. Obtain a permit from San Joaquin County Environmental Health to perform subsurface exploration at the site.
2. Review available geologic and groundwater information for the site, as well as available design and construction documents for the existing pond berms.

3. Mark the boring locations with white paint and wood lathe and notify the Underground Service Alert (USA) to obtain utility clearance, as well as coordinate with City of Lodi personnel to locate facilities not marked by USA.

The subsurface exploration will include: advancing ten (10) soil probes throughout the existing pond berms; installing ten (10) groundwater monitoring wells at the soil probe locations; drilling and sampling of thirty-one (31) borings; and one day of hand auger sampling. For purposes of the budget presented in this proposal, the exploration efforts are assumed to be as follows:

1. The ten (10) soil probes will be advanced within, and/or adjacent to, the existing pond berms. The soil probes will extend about twenty (20) feet below the existing top of the berms using a truck-mounted hydraulic push Geoprobe® device. The Geoprobe® will recover continuous samples at the soil probe locations using 1-inch diameter, 4-foot long acetate-lined piston samplers. The liners will be sealed in the field and returned to the laboratory for further examination and testing.
2. The ten (10) groundwater monitoring wells will be constructed at the soil probe locations. The wells will be monitored periodically by City of Lodi representatives and reported to us. The groundwater monitoring at the wells will be used to evaluate the affect of pond levels on the groundwater levels (if any).
3. The 31 borings will be drilled and sampled at the approximate locations indicated in the Pond Study Work Plan utilizing a truck-mounted drill rig. Twenty (20) borings will be performed on top of the existing pond berms and will extend about twenty-five (25) feet below the existing ground surface and eleven (11) borings will be performed on the landside toe of the berms and will extend about fifteen (15) feet below the existing ground surface. Additional assumptions are as follows:
 - a. The boreholes will be backfilled with neat cement grout to the surface in accordance with San Joaquin County Environmental Health requirements. Borings performed in existing pavement areas (at the top of the berm) will be patched with asphalt concrete cold-patch. Spoils from the drilling will be disposed of on-site.
 - b. Immediately after recovery, the field engineer will visually classify the soils in the tubes and the ends of the tubes will be sealed to preserve the natural moisture content. All samples will be taken to the laboratory for additional classification and selection of samples for testing.
4. The hand auger probes will be completed over a one day period at the waterside toe of the berms when pond levels allow. The hand auger probes will each extend up to about ten (10) feet below the existing ground surface. Soil samples will be collected from the auger cuttings at selected intervals to obtain samples representative of the observed soil profile. Soil samples collected from the hand auger probes will be sealed in bags in the field and returned to the laboratory.

Laboratory testing will be performed on the recovered soil samples including the following:

1. Permeability testing;

2. Strength testing (unconfined compressive strength testing and/or triaxial tests depending on the soils conditions encountered);
3. In-place soil moisture contents; and
4. Dry densities.

Task 13. Salinity Evaluation and Minimization Plan

The Salinity Evaluation and Minimization Plan was submitted to the Regional Board on October 30, 2008. The Regional Board Executive Officer approved this Plan on September 29, 2009. The City must provide annual reports (due on August 1) demonstrating reasonable progress in the reduction of salinity in its discharge to Dredger Cut and the Agricultural Fields. WYA efforts under this task will be to develop the salinity data documentation that will need to be included in the August 2010 Annual Progress Report (completed under the Regulatory Program Management Task).

Deliverables: Documentation of the City's 2009/2010 Salinity Evaluation and Minimization activities for inclusion in the August 2010 Semi-Annual Progress Report. August 2010 Semi-Annual Progress Report will be provided under Task 4.

Task 14. Background Groundwater Quality and Degradation Assessment Study

WYA completed the revised Background Monitoring Well Installation Work Plan (Monitoring Well Work Plan) in May 2008. The Regional Board approved this Work Plan on June 4, 2008. In accordance with the Monitoring Well Work Plan, three "background" monitoring wells were installed in December 2008. In accordance with the WDRs, a Background Groundwater Quality Characterization Report is due by August 1, 2010, and should include at least two years of groundwater monitoring in the monitoring wells network, including the background monitoring wells.

Samples are collected and analyzed from the City's monitoring wells on a quarterly basis in accordance with the Monitoring and Reporting Program included in the City's permit. WYA anticipates that the City staff will complete all of the sample collection efforts required during FY 09/10. WYA also assumes that the City will contract directly with the analytical laboratory for the sample analysis.

WYA efforts during FY 09/10 will include the following tasks:

- Subtask 14.1 Perform Background Groundwater Quality Comparison
- Subtask 14.2 Prepare Background Groundwater Quality Characterization Report
- Subtask 14.3 Construct Monitoring Wells (Optional)
- Subtask 14.4 Groundwater Modeling (Optional)

Subtasks 14.1 and 14.2 are intended to address the specific requirements of the permit.

The optional Subtask 14.3 is included in the event that additional monitoring wells are needed to completely characterize background groundwater quality or to assess groundwater quality downgradient of “every treatment, storage, and representative agricultural field that does or may release waste constituents to groundwater.”

The optional Subtask 14.4 is included in the event that the City wishes to use groundwater modeling to help delineate the lateral extent of potential impacts to shallow groundwater from both the WPCF and the other non-point sources in the vicinity (such as the dairies and their associated land application areas located to the north and northeast of the WPCF). Specifically, a groundwater model would be used to identify the three-dimensional flow paths in the vicinity of the WPCF and dairies. This would provide helpful information regarding the likely sources that may be impacting wells within the existing monitoring network and guide interpretation of groundwater quality monitoring results. Additional details regarding the need for groundwater modeling is provided below.

Regionally, groundwater flow converges along flow paths extending from recharge areas towards a regional pumping center in the Stockton area. The primary recharge areas of interest are the Delta, the lower Mokelumne River and lands in the Woodbridge Irrigation District (WID). Recharge in the Delta results from seepage from Delta channels and from deep percolation of water pumped from Delta channels and used to irrigate delta lands. Recharge within WID results from canal seepage and deep percolation of Mokelumne River water used for irrigation.

Both local and regional groundwater elevation contour maps show convergence of flow paths to the east and southeast of the WPCF. Locally important sources of recharge include deep percolation from wetland areas and ponds in the White Slough Wildlife Area, recharge from the unnamed Delta channel that extends onto the City’s property, seepage from the WPCF ponds, deep percolation of irrigation water in the WPCF land application areas, and deep percolation of irrigation water in the adjacent dairy land application areas. Some of these local sources of recharge degrade groundwater quality while others may improve the quality. Because groundwater flow converges, down gradient impacts are difficult to assign to specific sources.

The Regional Board only requires monitoring wells screened at the water table. Therefore, the groundwater elevation contour maps developed from these wells are two-dimensional and cannot provide good information on the vertical movement of groundwater. Nevertheless, groundwater flow in the vicinity of the WPCF undoubtedly has significant vertical components driven by pumping and the downward movement of recharging water. Because of limited information on the vertical components of groundwater flow, the lateral extent of impacts measured at the water table is difficult to assess and assign to specific sources.

A modeling effort can be used to help define the vertical component of local groundwater. This information would be very useful in assessing water quality data from existing wells and ensuring that each monitoring well fulfills its intended purpose. Additional information regarding the downward flow in the aquifer system would also be very helpful in locating future monitoring wells.

Subtask 14.1. Perform Background Groundwater Quality Comparison

The background evaluation will be conducted consistent with CCR Title 27, Section 20415, as required in the WDRs. Descriptive statistics will be tabulated for the background and WPCF monitoring well results, and the background results will be compared to the results from each site monitoring well on a constituent by constituent basis using the Wilcoxon Rank-Sum (WRS) test. The WRS test is a nonparametric, hypothesis-testing procedure that tests for differences in central value between two independent groups of samples. Constituents exceeding background will be identified and graphed for each site monitoring well to assess concentration trends over time.

Subtask 14.2. Prepare Technical Report

The results of the background groundwater quality evaluation will be documented in a Background Groundwater Quality Characterization Report. WYA will prepare an administrative draft report for City staff review with the required text, tables and figures documenting the background evaluation and groundwater quality comparison. A draft report will be submitted to the Regional Board staff for review that incorporates City staff comments. Following Regional Board review and comment, a final report will be developed (if needed).

Deliverables: Administrative Draft Background Quality Report for City Review; Draft Background Quality Report for Regional Board staff review; and a Final Background Quality Report. The administrative draft report will be distributed in PDF formats for review. Bound copies of the revised version of the report will be distributed to the Regional Board and City staff.

Subtask 14.3. Construct Monitoring Wells (Optional)

This optional task includes two potential well designs; and one or both of the designs could be implemented. The first design is a 50-foot-deep monitoring well assumed to be completed at the water table. The second design is a 90-foot-deep well assumed to be constructed in a deeper aquifer zone adjacent to an existing well.

The purpose of the shallower of the two wells would be to assess groundwater conditions at the water table at a location that is currently not monitored. For example, a new water table well could be constructed to further characterize background groundwater quality or potential impacts downgradient of a treatment or storage unit.

The purpose of the deeper well would be to assess groundwater conditions in a deeper aquifer zone at a location that is currently monitored. For example, monitoring in the deeper zone might be deemed necessary near existing monitoring well WSM-1 to determine whether constituents detected in WSM-1 have migrated to greater depths in the aquifer, where they could present a threat to nearby production wells.

The locations of any monitoring wells determined to be necessary will be selected in consultation with City and Regional Board staff. A monitoring well construction workplan, documenting the objectives, well location rationale, well construction materials and procedures, and implementation schedule will be prepared. The workplan will be prepared in accordance with applicable California Department of Water Resources (DWR), Regional Board and San Joaquin County Department of Environmental Health (SJDEH) requirements for well construction. For purposes of the budget presented in this proposal, the wells are assumed to be constructed as follows:

- Two-inch inside diameter PVC, with 20-foot slotted 0.02-inch screen and #2/12 filter pack inside 8-inch borings
- Traffic-rated flush mounted boxes and one well completed with an above-ground steel protective casing and four traffic bollards
- Wells will be located on City-owned land or County rights-of-way
- Well construction and development is assumed to require two days per well for a 50-foot deep well and four days per well for a 90-foot-deep well
- Twenty-four hour, seven day per week operation will be allowed by the City if required
- Soil cuttings and development water will be left at each well site or can be transported to, and left at, a City designated area of the WPCF by the drilling contractor. Thereafter, the City will be responsible for soil cuttings and development water.

County encroachment permits and drilling permits will be obtained by WYA. Coordinate surveying of the monitoring wells will be performed by the City of Lodi. After construction of the well or wells, a well completion report will be prepared in accordance with applicable DWR, Regional Board and SJDEH requirements.

Deliverables: Administrative Draft Well Construction Workplan for City review. Draft Well Construction Workplan for Regional Board review. Administrative Draft Well Completion Report for City review. Final Well Completion Report for Regional Board compliance. The administrative draft reports will be distributed in PDF formats for City review. Bound copies of the revised version of the reports will be distributed to the Regional Board and City staff.

Subtask 14.4. Groundwater Flow Modeling (Optional)

Three-dimensional groundwater flow paths will be evaluated using model simulations covering the WPCF and dairies in the vicinity of the WPCF. The model will extend to a depth of 200 feet below land surface. Recharge rates used in the model will be based on publically available land and water use information, and water balance information developed for the WPCF. Groundwater flow modeling will be conducted using MODFLOW (McDonald and Harbaugh, 1988; Harbaugh and McDonald, 1996; and Harbaugh, et. al., 2000). Particle tracking will be conducted using MODPATH (Pollock, 1989).

MODFLOW is a widely used, thoroughly tested and well documented finite difference program developed by the United States Geological Survey. MODFLOW implements an approximate finite difference solution to the groundwater flow equation and will be implemented using the Groundwater Vistas interface. MODFLOW will be used to model simulated groundwater heads and velocity vectors in plan and cross section view. This information will be used to assess groundwater flow velocities.

MODPATH is a particle tracking post-processing package that was developed to compute three-dimensional flowpaths using output from steady-state or transient ground-water flow simulations by MODFLOW. MODPATH will be used to assess flow paths and travel times from potential source areas to simulated monitoring locations.

A Groundwater Modeling Technical Memorandum (TM) summarizing the findings of the modeling effort will be developed and presented to City staff for review. After incorporating City comments, WYA will finalize the TM and redistribute it to the City

Deliverables: Draft Groundwater Modeling TM for City review. Final Groundwater Modeling TM that incorporates City comments on the draft. The draft TM will be distributed in PDF format for City review. Bound copies of the revised version of the TM will be distributed to the City following incorporation of City comments.

Task 15. Effluent and Receiving Water Characterization

The NPDES permit requires that the City submit a Work Plan for the completion of an Effluent and Receiving Water Characterization Study (Characterization Study) within two year and six months of the adoption date of the permit (or by March 14, 2010). The purpose of the Characterization Study Work Plan is to describe the monitoring program that will be completed by the City to ensure adequate data is available to develop the City's next permit. In accordance with the permit, quarterly monitoring will need to be completed between the third quarter of 2010 and the second quarter of 2011. (Note the City must file a Report of Waste Discharge by March 4, 2012.)

This task involves the completion of the Characterization Study Work Plan. This task does not currently include any additional efforts needed for completion of the Characterization Study.

Deliverables: Characterization Study Work Plan.

PROJECT BUDGET

The total fee for the scope of work described above is estimated to be \$392,300. If the City elects to implement all of the optional groundwater evaluation tasks the total fee is estimated at \$496,700. A summary of the project costs by task is shown in the attached Table 1, and a detailed breakdown is also attached. WYA will perform all work on an hourly basis at standard company charge rates, and will not exceed the estimated cost without written authorization. If additional budget is required to complete work identified herein, WYA will request City authorization prior to exceeding the budget.

Mr. Charles E. Swimley Jr.
October 2, 2009
Page 17

SCHEDULE

Work will begin upon notice to proceed from City, and is expected to be completed by August 1, 2010. A detailed schedule showing all of the permit compliance activities is also attached and will be maintained by WYA throughout the duration of this contract. WYA and our sub-consultants will provide additional services related to the studies needed under the renewed permit, subject to mutually agreeable adjustments to the scope, authorized budget, and schedule.

WYA appreciates the opportunity to provide additional permitting services to the City. Please contact me if you have any questions or need additional information.

Sincerely,

WEST YOST ASSOCIATES

A handwritten signature in black ink, appearing to read 'Kathryn E. Gies', written in a cursive style.

Kathryn E. Gies
Principal Engineer

KEG:nmp

attachments

cc: Wally Sandelin, City of Lodi
Del Kerlin, City of Lodi

Table 1. Estimated Fee for FY 09/10 Permit Implementation Support

Task	WYA Fee, dollars	Subconsultant Fee, dollars				Total Estimated Fee, dollars
		RBI	SSD	WKA	Well Contractor	
Task 1. Project Management	4,800	5,200	—	—	—	20,000
Task 2. State Board Support	—	—	—	—	—	—
Task 3. SJVAPCD Biosolids Rule Compliance	10,700	—	—	—	—	10,700
Task 4. Regulatory Program Management	25,300	—	5,500	—	—	30,800
Task 5. Land Application Monitoring Coordination	26,200	—	—	—	—	26,200
Task 6: Compliance Studies	20,300	—	—	—	—	20,300
Task 7: Toxicity Reduction Evaluation	15,500	78,600	—	—	—	94,100
Task 8: Title 22 Report	48,500	—	—	—	—	48,500
Task 9: Wintertime Irrigation Management Plan	—	—	—	—	—	—
Task 10: Temperature Study	3,000	34,500	—	—	—	37,500
Task 11: Industrial Influent Characterization Study	3,400	—	—	—	—	3,400
Task 12: Pond Freeboard Study	1,500	—	—	38,500	—	40,000
Task 13: Salinity Evaluation and Minimization Plan	4,600	—	—	—	—	4,600
Task 14: Background Groundwater Analysis	49,500	—	—	—	—	49,500
Task 15: Effluent Characterization Study	6,700	—	—	—	—	6,700
Totals	230,000	118,300	5,500	38,500	—	392,300
<i>Optional Task 14.3a: Installation of an Additional 25-foot Well</i>	35,900	—	—	—	4,600	40,500
<i>Optional Task 14.3b: Installation of an Additional 50-foot Well</i>	38,500	—	—	—	6,500	45,000
<i>Optional Task 14.4: Groundwater Modeling</i>	18,900	—	—	—	—	18,900
Totals With Optional Items	323,300	118,200	5,500	38,500	11,100	496,700

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
ADDITIONAL TASK ORDER WITH WEST YOST ASSOCIATES FOR
FISCAL YEAR 2009/10 TO PROVIDE PERMIT ASSISTANCE AND
PREPARE VARIOUS STUDIES REQUIRED BY THE CITY'S
WASTEWATER DISCHARGE PERMIT AND FURTHER APPROPRIATING
FUNDS

=====

WHEREAS, the City's wastewater discharge permit includes requirements for a number of studies and reports to be conducted or developed on various aspects of the City's wastewater treatment operations; and

WHEREAS, on August 20, 2008, Council authorized West Yost Associates to proceed with preparing work plans for various studies and reports required by the permit; and

WHEREAS, West Yost Associates has furnished the City with a combined proposal to respond to the permit requirements for fiscal year 2009/10, including assisting City staff in regulatory program management; and

WHEREAS, the studies' monitoring efforts are required in the City's permit and nonperformance would subject the City to significant fines; and

WHEREAS, the estimated cost for this work is \$392,300, and staff suggests a contingency amount of approximately 10 percent to account for unforeseen issues for a total of \$435,000.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize an additional task order in the amount of \$392,300 with West Yost Associates, of Davis, California, to provide permit assistance and prepare various studies and reports required by the City's wastewater discharge permit issued by the State Central Valley Regional Water Quality Control Board; and

BE IT FURTHER RESOLVED that funds in the amount of \$435,000 be appropriated from the Wastewater Capital and Operating Funds for this project.

Dated: November 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Awarding Contract for City-Funded Maintenance of Landscape Areas for 2010 to Dominguez Landscape Services, Inc., of Sacramento, for Groups A, B, and C for an Annual Cost of \$174,686

MEETING DATE: November 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution awarding the contract for City-Funded Maintenance of Landscape Areas for 2010 to Dominguez Landscape Services, Inc., of Sacramento, for Groups A, B and C for an annual cost of \$174,686.28.

BACKGROUND INFORMATION: This project provides for the contract landscape maintenance of 200 landscaped sites in the public right-of-way, public buildings, parking lots, the Multimodal Station, and the White Slough Water Pollution Control Facility for the period of January 1, 2010 through

December 31, 2010. Additional sites have been added that include various reverse frontage sidewalk and tree well areas. The total acreage of the contract now exceeds 45 acres.

This bid consists of three separate groups: Group A – Maintenance of Turf and Miscellaneous Landscape Areas; Group B – Maintenance of Lower Sacramento Road and Adjacent Landscape Areas; and Group C – Maintenance of Cherokee Lane and Adjacent Landscape Areas.

The specifications were approved on October 7, 2009, and are on file in the Public Works Department. The City distributed nine bid packets and 15 notifications of availability. The City received the following four bids on October 21, 2009:

Bidder	Location	Bid
Dominguez Landscape Services, Inc.	Sacramento	\$174,686.28
Pride Landscape & Concrete	Lodi	\$196,800.00
Creative Outdoor Environments	Lathrop	\$210,059.04
Odyssey Company	Lodi	\$211,320.00

FISCAL IMPACT: This annual contract maintains the existing landscape sites at a frequency level of once per month, with quarterly pruning, with the exception of turf areas that are serviced weekly. This work is separate from the landscape maintenance locations included in the various Landscape Maintenance Assessment Districts that have been established in new developments. Maintenance work at those locations is done weekly, with as-needed pruning.

FUNDING AVAILABLE: The money for this project will be coming from the 2009/10 Operating Budget in General Fund, Utility, and Transit accounts (102011, 125052, 170403, 180453, 3215036, 103511, 160652, 170404, 210801).

Jordan Ayers
Deputy City Manager/Internal Services Director

F. Wally Sandelin
Public Works Director

Prepared by Curtis Juran, Assistant Streets and Drainage Manager
cc: Curtis Juran, Assistant Streets and Drainage Manager

APPROVED: _____
Blair King, City Manager

THIS CONTRACT, made by and between the CITY OF LODI, State of California, herein referred to as "City" and **Dominguez Landscape Services, Inc.**, herein referred to as "Contractor".

WITNESSETH:

That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other, as follows:

The complete contract consists of the following documents which are incorporated herein by this reference, to-wit:

Notice Inviting Bids
Information to Bidders
General Provisions
Special Provisions
Bid Proposal
Contract
Vicinity Maps

The July 1992 Edition Standard
Specifications, State of California
Business and Transportation Agency,
Department of Transportation

All of the above documents, sometimes hereinafter referred to as the "Contract Documents," are intended to cooperate so that any work called for in one and not mentioned in the other is to be executed the same as if mentioned in all said documents.

ARTICLE I That for and in consideration of the payments and agreements hereinafter mentioned, the Contractor agrees with the City, at Contractor's cost and expense, to do all the work and furnish all the materials except such as are mentioned in the specifications to be furnished by the City, necessary to maintain in a good workmanlike and substantial manner to the satisfaction of the City the proposed maintenance of landscaped areas.

ARTICLE II The Contractor agrees to conform to the provisions of Chapter 1, Part 7, Division 2 of the Labor Code. The Contractor and any Subcontractor will pay the general prevailing wage rate and other employer payments for health and welfare, pension, vacation, travel time, and subsistence pay, apprenticeship or other training programs. The responsibility for compliance with these Labor Code requirements is on the prime contractor.

ARTICLE III And the Contractor agrees to receive and accept the following prices as full compensation for furnishing the work contemplated and embraced in this agreement; also for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until it's acceptance by the City, and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work; and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Contract Documents and the requirements of the Engineer under them, to-wit:

ARTICLE IV By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

<u>ITEM</u>	<u>UNIT</u>	<u>ESTIMATED QUANTITY</u>	<u>UNIT PRICE</u>	<u>TOTAL ANNUAL PRICE</u>
<u>EXHIBIT GROUP A</u>				
1				
TURF SITES PER GROUP A - MOWING, PRUNING, WEED CONTROL, LITTER PICK UP, IRRIGATION MAINTENANCE PER SPECIFICATIONS	1	LS	\$ <u>3,452.44</u>	\$ <u>41,429.28</u>
<u>EXHIBIT GROUP B</u>				
2				
SITES PER GROUP B - WEED CONTROL, LITTER PICK UP, ONCE PER MONTH, PRUNING ONCE PER THREE MONTHS, AS PER SPECIFICATIONS, IRRIGATION MAINTENANCE INCLUDED	1	LS	\$ <u>8,448.68</u>	\$ <u>101,384.16</u>
<u>EXHIBIT GROUP C</u>				
3				
SITES PER GROUP C - WEED CONTROL, LITTER PICK UP, ONCE PER MONTH, PRUNING ONCE PER THREE MONTHS, AS PER SPECIFICATIONS, IRRIGATION MAINTENANCE INCLUDED	1	LS	\$ <u>2,656.07</u>	\$ <u>31,872.84</u>
TOTAL				\$ <u>174,686.28</u>

References must be submitted with bid proposal as described in Section 2.140

ARTICLE V It is further expressly agreed by and between the parties hereto that, should there be any conflict between the terms of this instrument and the Bid Proposal of the Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

WHEN SIGNING THIS CONTRACT, THE CONTRACTOR AGREES THAT THE PERIOD FOR THIS CONTRACT IS JANUARY 1, 2010 THROUGH DECEMBER 31, 2010, AND THE CONTRACTOR AGREES TO SUBMIT MONTHLY BILLINGS NO LATER THAN THE 10TH OF EACH MONTH.

IN WITNESS WHEREOF, the parties hereto have hereunder set their hands the day and year first written.

CONTRACTOR

Dated: _____, 2009

Authorized Signature

Title

TYPE OF ORGANIZATION

Individual, Partnership or Corporation

(Affix corporate seal if Corporation)

Address

(_____) _____
Telephone

CITY OF LODI

A Municipal corporation

Blair King
City Manager

Date

Attest:

Randi Johl
City Clerk

Date

Approved as to Form:

D. Stephen Schwabauer
City Attorney

Date

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL AWARDING
CONTRACT FOR CITY-FUNDED MAINTENANCE OF
LANDSCAPE AREAS FOR 2010

=====

WHEREAS, in answer to notice duly published in accordance with law and the order of this City Council, sealed bids were received and publicly opened on October 21, 2009, at 11:00 a.m. for the City-Funded Maintenance of Landscape Areas for 2010, described in the plans and specifications therefore approved by the City Council on October 7, 2009; and

WHEREAS, said bids have been checked and tabulated and a report thereof filed with the City Manager as follows:

Bidder	Bid
Dominguez Landscape Services, Inc.	\$174,686.28
Pride Landscape & Concrete	\$196,800.00
Creative Outdoor Environments	\$210,059.04
Odyssey Company	\$211,320.00

WHEREAS, staff recommends awarding the contract for the City-Funded Maintenance of Landscape Areas for 2010 to the low bidder, Dominguez Landscape Services, Inc., of Sacramento, California.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby award the contract for the City-Funded Maintenance of Landscape Areas for 2010 to the low bidder, Dominguez Landscape Services, Inc., of Sacramento, California, in the amount of \$174,686.28.

Dated: November 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –
NOES: COUNCIL MEMBERS –
ABSENT: COUNCIL MEMBERS –
ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Adopt Resolution Approving 2010 Street Maintenance Projects for Proposition 1B Funding (\$2,000,000)

MEETING DATE: November 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the 2010 Street Maintenance Projects for Proposition 1B funding (\$2,000,000).

BACKGROUND INFORMATION: The City has received Proposition 1B funds from the State since April 2008, totaling approximately \$2,000,000, which includes accumulated interest. It is a requirement of the Proposition 1B funding program that formal action be taken to designate a specific project to be funded, in part or in total, using these funds. It is required that the funds be expended by the end of 2011. The funds had been reserved for the Lodi Avenue Reconstruction Project, the bids for which came in below the original project estimate and, as a result, that project will be entirely funded by American Recovery and Reinvestment Act (ARRA) and Measure K funds

The proposed 2010 Street Maintenance Projects include installing an asphalt concrete overlay on several streets throughout the City, including Ham Lane from Turner Road to Lodi Avenue, Ham Lane from Kettleman Lane to Harney Lane, Vine Street from Mills Avenue to Ham Lane, Vine Street from Garfield Street to Cherokee Lane, Mills Avenue from Kettleman Lane to Jamestown Drive, and Elm Street from Hutchins Street to Church Street. Depending upon the construction bids received, more streets may be added or removed from the list to match the work to the available funding. The funds will be used, in addition to construction, for design and pre-design studies.

Staff will later request Council action to approve bidding the construction projects and awarding the contracts when the plans, specifications and estimates are completed.

FISCAL IMPACT: There is no fiscal impact for the fund appropriation.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer
FWS/LC/pmf
cc: Management Analyst Areida-Yadav
Senior Civil Engineer Chang
Assistant Streets and Drainage Manager

APPROVED:

Blair King, City Manager

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING 2010 STREET MAINTENANCE
PROJECTS FOR PROPOSITION 1B FUNDING

=====

WHEREAS, Proposition 1B funds have been received from the State since April 2008, and the current balance, including accumulated interest, is approximately \$2,000,000; and

WHEREAS, Proposition 1B funds were reserved for the Lodi Avenue Reconstruction project, however, that project is now being funded with American Recovery and Reinvestment Act (ARRA) and Measure K funds; and

WHEREAS, staff recommends appropriating the entire Proposition 1B fund to the 2010 Street Maintenance Projects; and

WHEREAS, the 2010 Street Maintenance Projects will include installing asphalt concrete overlay on streets throughout the City, including Ham Lane from Turner Road to Lodi Avenue, Ham Lane from Kettleman Lane to Harney Lane, Vine Street from Mills Avenue to Ham Lane, Vine Street from Garfield Street to Cherokee Lane, Mills Avenue from Kettleman Lane to Jamestown Drive, and Elm Street from Hutchins Street to Church Street. More streets may be added to the list, following the project bid opening, to match available funding.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the 2010 Street Maintenance Projects for Proposition 1B funding in the approximate amount of \$2,000,000.

Dated: November 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Second Supplemental Agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with G-REM, Inc., to Provide Time Extension

MEETING DATE: November 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving Second Supplemental Agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with G-REM, Inc., to provide time extension.

BACKGROUND INFORMATION: The City and the developer, G-REM, Inc., entered into a land exchange agreement in December 2004 (Resolution No. 2004-248) per City Council's direction. As shown on Exhibits A and B, the land exchange agreement adjusts the property lines to reconfigure the Pixley Park C-Basin to allow development of the park site per the approved Pixley Park Conceptual Plan.

As part of the land exchange agreement, the developer agreed to construct all the required frontage improvements fronting the proposed park site on Auto Center Drive and to excavate the basin to conform to the final grading of the future park layout. The executed agreement gave the developer until December 2007 to complete the obligations of the agreement.

The developer entered into a Supplemental Agreement with the City on January 23, 2008, to extend the completion of the basin excavation to December 2009, due to problems with the ability of the developer's contractor to move and sell the excavated soil.

The developer's contractor has completed the majority of the public improvements and has excavated half of the basin. Due to the current economic climate, the grading of the basin will not be completed by the agreed upon date. The developer's contractor anticipated being able to sell dirt to be used as fill on other projects. These projects have not materialized as expected.

The developer is requesting to extend the completion date of the improvement agreement and the original land exchange agreement to December 31, 2011, to complete all the required improvements and grading of the park site. Since the City does not currently have funds to construct the proposed features at the park site, staff supports an extension to the completion date of the basin excavation and land exchange.

The developer has executed the supplemental agreement and paid the document preparation fees.

FISCAL IMPACT: There will be no direct fiscal impact on the extension of the basin excavation and land exchange completion date. The developer/contractor

APPROVED: _____
Blair King, City Manager

Adopt Resolution Approving Second Supplemental Agreement to Pixley Park Property Exchange Agreement and Improvement Agreement with G-REM, Inc., to Provide Time Extension
November 4, 2009
Page 2

is responsible for the basin maintenance during the extension period;
hence the City's part of the Maintenance cost will be reduced.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

Prepared by Lyman Chang, Senior Civil Engineer

RCP/LC/pmf

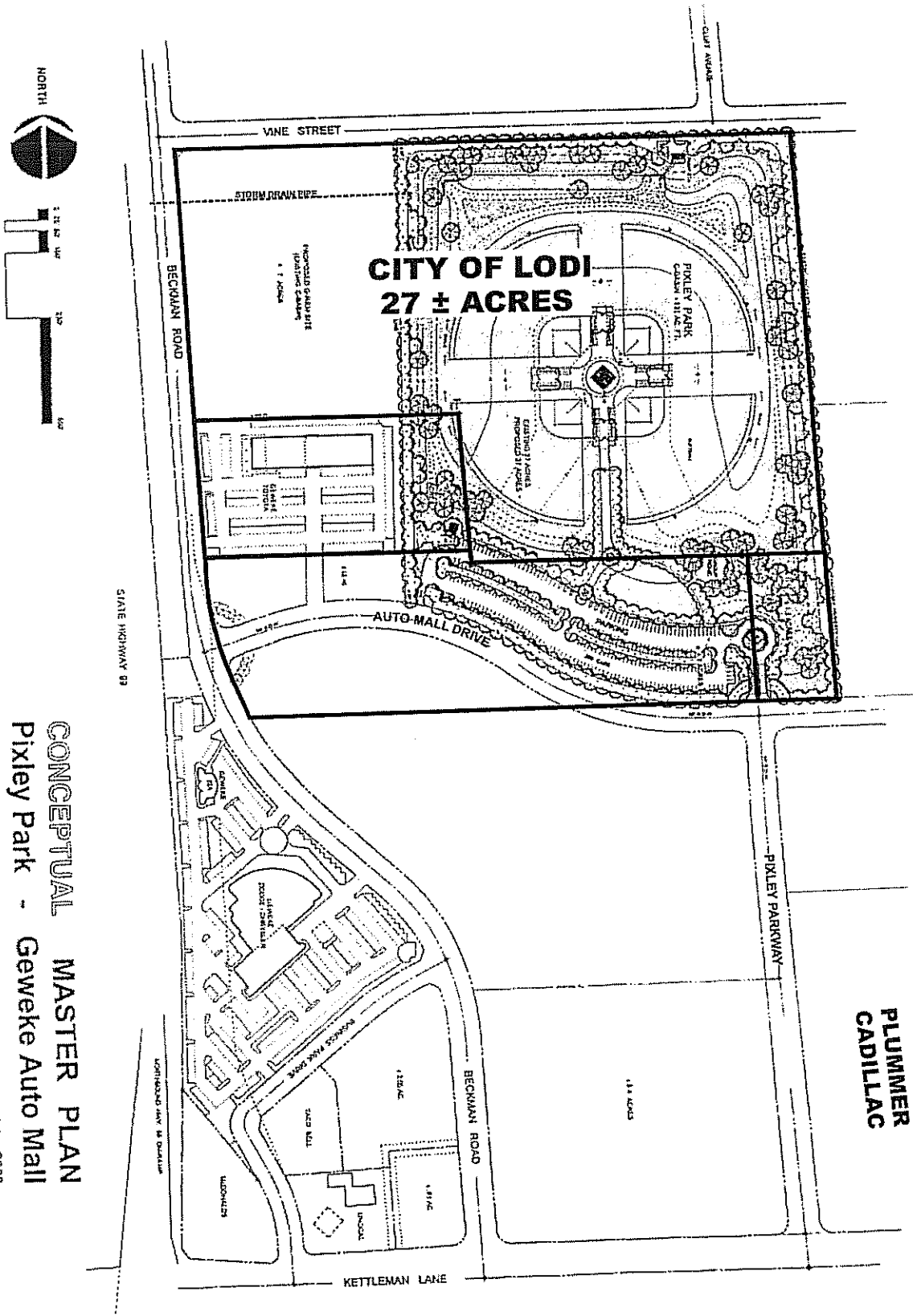
Attachments

cc: City Attorney
G-REM, Inc.
Park Superintendent
Streets and Drainage Manager



EXHIBIT A

EXISTING LOT LINES



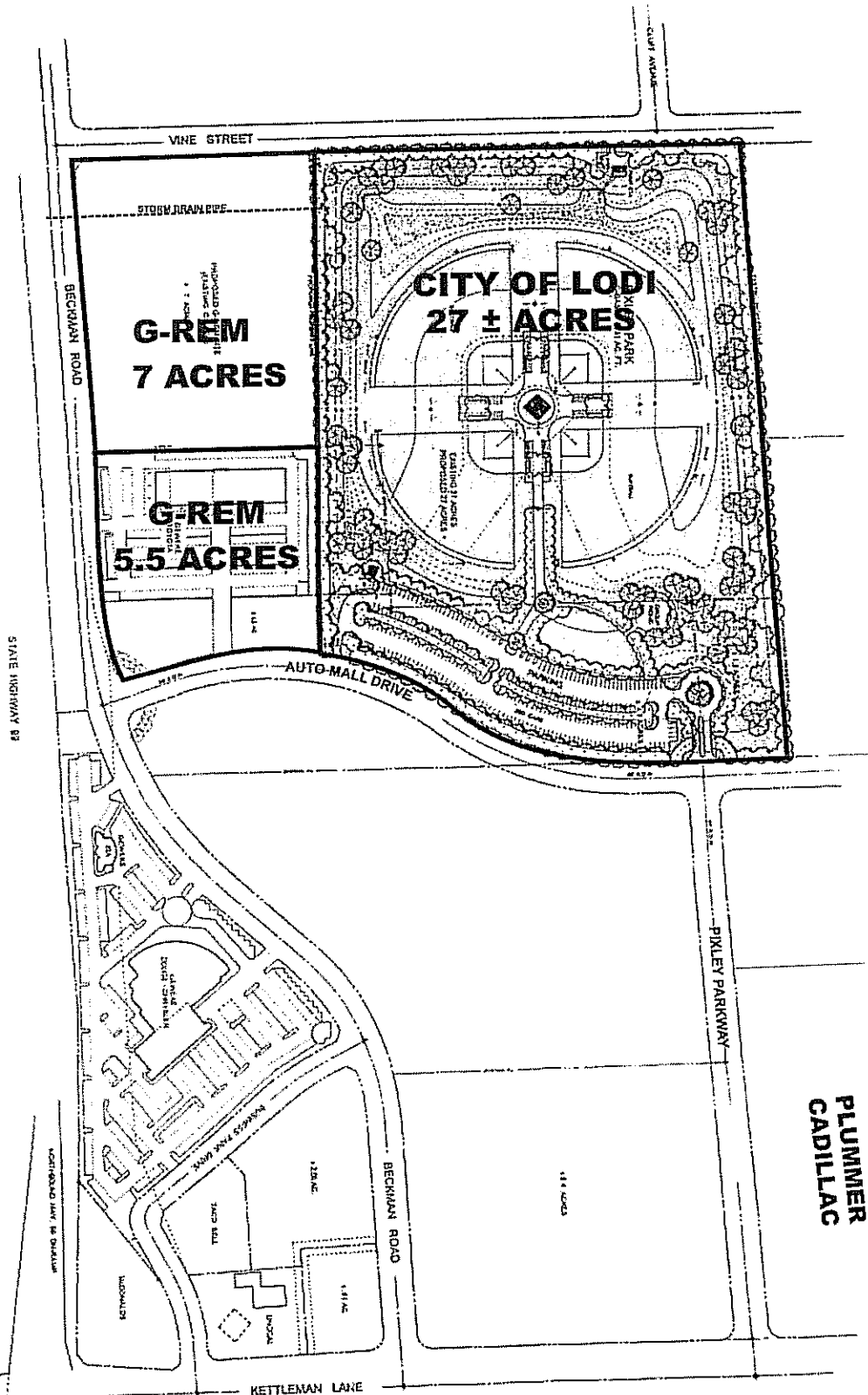
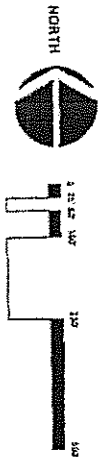


CITY OF LODI

PUBLIC WORKS DEPARTMENT

EXHIBIT B

PROPOSED PROPERTY LINES



CONCEPTUAL MASTER PLAN
Pixley Park - Geweke Auto Mall
G-REM, INC.
City of Lodi, California
Lawrence A. Neithorn, ASLA, Landscape Architect
July 2003

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City Clerk)
City of Lodi, City Hall)
221 Pine Street)
Lodi, CA 95241)

APN: 049-250-72

(Space Above for Recorder's Use Only)

**SECOND SUPPLEMENTAL AGREEMENT
to the
PIXLEY PARK
PROPERTY EXCHANGE AGREEMENT
AND
IMPROVEMENT AGREEMENT**

This Second Supplemental Agreement to the Pixley Park Property Exchange Agreement and the Improvement Agreement for The Public Improvements of Pixley Park Site Grading ("Second Supplemental Agreement") is made and entered into this ____ day of _____, 2009, by and between the City of Lodi, a municipal corporation ("CITY") and GFLIP III, L. P., a California Limited Partnership ("DEVELOPER"), (collectively the "Parties")

RECITALS:

WHEREAS, the Parties entered into the Pixley Park Property Exchange Agreement, dated November 29, 2004 ("Exchange Agreement"), to address the responsibilities of CITY and DEVELOPER for the Pixley Park property exchange; and

WHEREAS, the Parties have entered into the Addendum to the Pixley Park Property Exchange Agreement dated March 29, 2006 ("Addendum to Exchange Agreement"), to address the grading of the Pixley Park Site (described more fully in Item No. 2 of the Addendum to the Exchange Agreement); and

WHEREAS, the Parties have entered into an Improvement Agreement for the Public Improvements of Pixley Park Site Grading ("Improvement Agreement"), to address public improvements and grading of the Pixley Park Site; and

WHEREAS, the Parties have entered into a Supplemental Agreement to the Pixley Park Property Exchange Agreement and Improvement Agreement ("Supplemental Agreement") dated January 23, 2008, to extend the basin excavation and the land exchange completion date to December 31, 2009; and

WHEREAS, Developer desires to extend the terms of the Exchange Agreement and Improvement Agreement to allow additional time for the basin excavation at the Pixley Park Site.

NOW THEREFORE, in consideration of the mutual covenants and conditions herein contained, it is hereby agreed by and between the Parties as follows:

1. This Second Supplemental Agreement supplements the Exchange Agreement, Addendum To Exchange Agreement, the Improvement Agreement, and Supplemental Agreement previously executed by the Parties.

2. The Parties agree to extend the completion date of the required improvements and property exchange as set forth in the various agreements entered into by the parties and described in paragraph 1 above, to and including December 31, 2011.
3. DEVELOPER shall provide and keep current the necessary securities and insurance as specified in the Exchange Agreement, Addendum to Exchange Agreement and Improvement Agreement.
4. All other terms and conditions of the Exchange Agreement, Addendum to Exchange Agreement Improvement Agreement, and Supplemental Agreement shall remain unchanged, except as modified hereinabove.
5. DEVELOPER agrees to pay all additional costs for preparation and execution of this Second Supplemental Agreement.
6. This Second Supplemental Agreement shall run with the land and be binding on the DEVELOPER, its heirs, successors or assigns.
7. A copy of this Second Supplemental Agreement shall be recorded in the office of the San Joaquin County Records, P. O. Box 1968, Stockton, California 95201-1968.
8. Any notice required to be given by the terms of this Second Supplemental Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or in three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

Notices required to be given to CITY shall be addressed as follows:

Wally Sandelin
Public Works Director
City of Lodi
P. O. Box 3006
Lodi, CA 95240-1910

Notices required to be given to DEVELOPER shall be addressed as follows:

GFLIP III L. P., a California Limited Partnership

IN WITNESS WHEREOF, the Parties hereto have set their hands the day, month and year appearing opposite their names.

CITY OF LODI, a municipal corporation

Dated: _____ 2009

By: _____
Blair King, City Manager

Attest: _____
Randi Johl, City Clerk

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA,)
COUNTY OF SAN JOAQUIN)

On _____ before me, _____
, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public)

Seal

GFLIP III, L. P., a California Limited Partnership

Dated: _____ 2009

By _____
Name: _____
Title: _____

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA,)
COUNTY OF SAN JOAQUIN)

On _____ before me, _____
, personally appeared _____ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s), acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public)

Seal

Approved as to form:

JANICE D. MAGDICH
Deputy City Attorney

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL APPROVING
SECOND SUPPLEMENTAL AGREEMENT TO PIXLEY PARK
PROPERTY EXCHANGE AGREEMENT AND IMPROVEMENT
AGREEMENT

=====

WHEREAS, the City of Lodi and the developer, G-REM, Inc., entered into a land exchange agreement in December 2004 to reconfigure the Pixley Park C-Basin to allow development of the park site per the approved Pixley Park Conceptual Plan. As part of the land exchange agreement, the developer agreed to construct all the required frontage improvements fronting the proposed park site on Auto Center Drive and to excavate the basin to conform to the final grading of the future park layout. The executed agreement gave the developer until December 2007 to complete the obligations of the agreement; and

WHEREAS, the developer entered into a Supplemental Agreement with the City on January 23, 2008, to extend the completion of the basin excavation to December 2009, due to difficulties in moving and selling the excavated soil; and

WHEREAS, the developer requested to extend the completion date of the improvement agreement and the original land exchange agreement to allow extra time to complete all the required improvements and grading of the park site. Since the City does not currently have funds to construct the proposed features at the park site, staff supports an extension to the completion date of the basin excavation and land exchange to December 31, 2011; and

WHEREAS, the developer has executed the supplemental agreement and paid the document preparation fees.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Second Supplemental Agreement to the Pixley Park Property Exchange Agreement and Improvement Agreement with G-REM, Inc.; and

BE IT FURTHER RESOLVED that the City Council does hereby authorize the City Manager and City Clerk to execute the agreement on behalf of the City.

Dated: November 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Repealing Resolution No. 2009-120 and Approving Vacation of Surplus Portion of Loma Drive Lying Adjacent to Parcel Located at 1310 West Turner Road and Authorizing City Manager to Execute Amended Agreement to Exchange Vacated Right-of-Way for Public Improvements

MEETING DATE: November 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution repealing Resolution No. 2009-120 and approving vacation of surplus portion of Loma Drive lying adjacent to parcel located at 1310 West Turner Road and authorizing the City Manager to execute an amended agreement to exchange the vacated right-of-way for public improvements.

BACKGROUND INFORMATION: On September 2, 2009, the Council adopted Resolution No. 2009-120 to vacate a surplus portion of Loma Drive and authorized the City Manager to execute an agreement to exchange the vacated right-of-way for public improvements. Subsequent to the adoption of the resolution, staff discovered that the legal descriptions attached to the resolution and the agreement were incorrect. The corrected documents vacate the exact same area of land as intended in the original documents and agreement. Staff therefore recommends the Council adopt the attached resolution and authorize the City Manager to execute the attached amended agreement to reflect the correct legal descriptions of the properties described therein.

FISCAL IMPACT: Not applicable.

FUNDING AVAILABLE: Not applicable.

F. Wally Sandelin
Public Works Director

Prepared by Denise Wiman, Senior Engineering Technician

FWS/DSW/pmf

Attachments

cc: Denise Wiman, Senior Engineering Technician
Chris Boyer, Junior Engineer

APPROVED: _____
Blair King, City Manager

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City Clerk)
City of Lodi, City Hall)
221 Pine Street)
Lodi, CA 95241)

APN: 039-030-03

(Space Above for Recorder's Use Only)

ADDRESS: 1310 W. TURNER RD

AMENDED AGREEMENT FOR THE ACQUISITION OF VACATED RIGHT-OF-WAY

THIS AGREEMENT is made and entered into by and between the CITY OF LODI, hereinafter referred to as "City" and MICHAEL W. STALLINGS and PATRICIA STALLINGS, husband and wife as joint tenants, hereinafter referred to as "Owner".

RECITALS:

Owner is the owner of that certain real property situated in the City of Lodi, County of San Joaquin, known as 1310 West Turner Road (APN 039-030-03) and incorporated herein by this reference and described as follows:

All of Lots 3 and 4, Lake Home Subdivision, in the City of Lodi, filed for record in Vol. 11 of Maps and Plats, page 30, San Joaquin County Records.

Excepting from said lot 4, the Easterly 20 feet thereof, as conveyed to City of Lodi, a municipal corporation, by deed dated July 14, 1944, in Vol. 877 of Official records, page 496, San Joaquin County Records.

WHEREAS, the City has adopted Resolution of Vacation (Resolution No. 2009-____ attached as Exhibit A) to vacate a surplus portion of Loma Drive lying adjacent to Owner's parcel at 1310 W. Turner Road; and

WHEREAS, Owner has obtained a building permit (Permit # B08-1537) to remodel the existing residence at 1310 W. Turner Road; and

WHEREAS, Owner is required to install sidewalk along Loma Drive as a condition of approval of said building permit; and

WHEREAS, Owner wishes to acquire the vacated right-of-way to remedy an encroachment into the right-of-way by an existing garage and to provide the necessary setback to allow the construction of a masonry wall along the Loma Drive frontage for privacy; and

WHEREAS, the existing wheelchair ramp at the southwest corner of the Turner Road/Loma Drive intersection is not in compliance with current ADA standards;

NOW THEREFORE, it is mutually stipulated and agreed as follows:

1. Owner agrees to remove and replace, at Owner's expense, the existing wheelchair ramp at southwest corner of the Turner Road/Loma Drive intersection in conformance with City

standards under the terms of an encroachment permit to be obtained from the Public Works Department.

2. City agrees to present owner with a grant deed for the vacated surplus right-of-way in exchange for the above specified improvements upon completion and acceptance by the City of said improvements.
3. Owner agrees to assume responsibility for the maintenance of the existing street trees along the Loma Drive frontage of Owner's parcel.
4. City agrees to allow the installation by the Owner or Owner's contractor of private landscape and irrigation improvements that encroach into the remaining Loma Drive right-of-way to facilitate the maintenance of the existing street trees under the terms of an encroachment permit to be obtained from the Public Works Department.
5. Owner agrees to save, defend, indemnify and hold harmless the City, its officers, agents and employees, from liability of any nature whatsoever arising from Owner's use or occupation of the Loma Drive right-of-way or City action requiring the removal and relocation of the encroaching private landscape and irrigation improvements.
6. This agreement shall run with the land and be binding on the Owner, its heirs, successors or assigns.
7. Herein is set forth the entire agreement between the parties. The performance of these conditions constitutes full performance and shall relieve City of all further obligations or claims.
8. In the event either party hereto breaches the terms, conditions and covenants of this Agreement, then, the prevailing party in any suit to enforce this Agreement or restrain the breach thereof, shall in addition to any other relief or damages awarded, be entitled to a reasonable attorney's fee and all costs of suit to be set and determined by any court of competent jurisdiction and added to any judgment obtained.
9. This agreement shall be recorded in the office of the San Joaquin County Recorder, P. O. Box 1968, Stockton, California, 95201-1968.

IN WITNESS WHEREOF, Owner and City have caused their names to be hereunto affixed and the City of Lodi has caused its corporate name and seal to be hereunto affixed by its proper officers thereunto duly authorized.

MICHAEL W. STALLINGS

DATE

PATRICIA STALLINGS

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA,)
COUNTY OF SAN JOAQUIN)

On _____ before me, _____, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public)

Seal

(CORPORATE SEAL)

CITY OF LODI, A MUNICIPAL CORPORATION

BY: _____

Blair King, City Manager

Date

CERTIFICATE OF ACKNOWLEDGEMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA,)
COUNTY OF SAN JOAQUIN)

On _____ before me, _____, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public)

Seal

ATTEST:

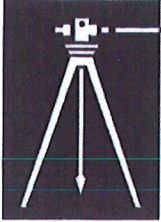
Randi Johl, City Clerk

Date

APPROVED AS TO FORM:

Janice D. Magdich, Deputy City Attorney

Date



BAUMBACH & PIAZZA, INC.

CIVIL ENGINEERS • LAND SURVEYORS

www.bpengineers.net

323 W. Elm Street
Lodi, CA 95240-2003
Phone (209) 368-6618
Fax (209) 368-6610

Legal Description
City Abandonment

All that certain real property situated in the City of Lodi, County of San Joaquin, State of California, and being more particularly described as follows:

The east 20 feet of Lot 4, as shown on the Map entitled, "LAKE HOME SUBDIVISION" recorded in Volume 11 of Maps and Plats, Page 30, San Joaquin County Records.

EXCEPT THEREFROM a portion of said Lot 4 and being more particularly described as follows:

Beginning at the southeast corner of said Lot 4; thence North 67°18'00" West, 1.36 feet along the south line of said Lot 4; thence North 00°54'00" West, 129.80 feet parallel with the east line of said Lot 4; thence North 25°04'39" West, 21.97 feet; thence North 00°54'00" West, 55.75 feet parallel with said east line; thence North 51°17'29" West, 12.75 feet to the North line of said Lot 4; thence easterly along said North line along a curve to the left having a radius of 1240.00 feet, a central angle of 0° 56' 42" , and an arc length of 20.45 feet to the northeast corner of said Lot 4; thence South 00°54'00" East, 218.18 feet along the east line of said Lot 4 to the point of beginning.



RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL
REPEALING RESOLUTION NO. 2009-120 AND
VACATING A SURPLUS PORTION OF LOMA DRIVE
LYING ADJACENT TO PARCEL LOCATED AT
1310 WEST TURNER ROAD AND AUTHORIZING THE
CITY MANAGER TO EXECUTE AN AMENDED
AGREEMENT WITH MICHAEL AND PATRICIA
STALLING TO EXCHANGE THE VACATED RIGHT-OF-
WAY FOR PUBLIC IMPROVEMENTS

=====

WHEREAS, the Council hereby repeals Resolution No. 2009-120; and

WHEREAS, Michael and Patricia Stallings, the owners of 1310 West Turner Road (the "Property") have requested the vacation of a portion of a 20-foot street right-of-way dedicated to the City of Lodi on July 28, 1944, and more particularly described in the revised Attachment 1; and

WHEREAS, the right-of-way has not been used by the City for the purpose for which it was dedicated or for any other use; and

WHEREAS, the Streets and Highways Code of the State of California §8333 provides that the legislative body of a bcal agency may summarily vacate a public service easement if the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation and the easement has been superceded by relocation and there are no other public facilities located within the easement; and

WHEREAS, pursuant to the requirements of Government Code §27288.1, the names of the owners of the title or interest in the Property as they appear on the latest equalized assessment roll are:

Owners: Michael and Patricia Stallings

WHEREAS, in accordance with Streets and Highways Code §8300 et seq., it is the desire of the City Council of the City of Lodi to vacate such street right-of-way; and

WHEREAS, the property within the proposed vacation is owned in fee by the City of Lodi and will not automatically revert to the adjacent property owners at 1310 West Turner Road upon vacation; and

WHEREAS, the owners of 1310 West Turner Road wish to acquire the vacated right-of-way to remedy an encroachment into the right-of-way by the existing garage and to provide the necessary setback to allow the construction of a masonry wall along Loma Drive frontage; and

WHEREAS, the existing wheelchair ramp at the Turner Road/Loma Drive intersection if constructed today would not be in compliance with current ADA standards, the property owners of 1310 West Turner Road have offered to remove and replace the existing wheelchair ramp in exchange for the vacated right-of-way; and

WHEREAS, the cost to the City to install a wheelchair ramp in conformance with current ADA standards is approximately \$10,000; and

WHEREAS, staff feels the owners' request is reasonable and is similar to past practice whereby street improvements were provided by the City in exchange for right-of-way dedications.

NOW, THEREFORE, BE IT RESOLVED by the Lodi City Council as follows:

1. That the 20-foot street right-of-way located on the westerly side of Loma Drive between Turner Road (as described in revised Attachment 1) and the railroad be vacated; and
2. That from and after the date this resolution is recorded, such property will not longer constitute a street right-of-way; and
3. That in exchange for the removal and replacement of the existing wheelchair ramp located at the intersection of Turner Road and Loma Drive with an ADA-compliant wheelchair ramp by the Property owners, the City of Lodi will transfer the vacated right-of-way to the Property owners, Michael and Patricia Stallings.

Dated: November 4, 2009

=====

I hereby certify that Resolution No. 2009-____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

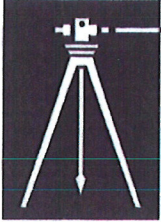
NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____



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CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Accept Donation to the Police Department for the Purchase and Installation of Two Powerheart G3 Automatic Automated External Defibrillators and Two Cabinets (\$3,400) and an in-kind Donation to the Police Department of Two Powerheart G3 Automatic Automated External Defibrillators (\$2,800)

MEETING DATE: November 4, 2009

PREPARED BY: Chief of Police

RECOMMENDED ACTION: Accept donation to the Lodi Police Department in the amount of \$3,400 for the purchase and installation of two Powerheart G3 Automatic Automated External Defibrillators and two cabinets and in-kind donation to the Police Department of two Powerheart G3 Automatic Automated External Defibrillators valued at \$2,800.

BACKGROUND INFORMATION: The City of Lodi received a check from Lodi resident James Baum in the amount of \$3,400 for the purchase and installation of two Powerheart G3 Automatic Automated External Defibrillators (AEDs) and equipment cabinets for use by the Police Department. The donation is brought to Council for formal acceptance and agreement to abide by the condition of the donation, which is that the funds be restricted to the purchase and installation of the AEDs and cabinets as referenced above. The Council is also requested to formally accept an in-kind donation to the Police Department of two Powerheart G3 Automatic Automated External Defibrillators from Devices for Life, LLC for use in its police vehicles.

The Lodi Police Department will work with the City Attorney's office to enter into an agreement with Devices for Life, LLC to ensure all compliance, training, operational and maintenance issues concerning the use of the AEDs are addressed.

FISCAL IMPACT: \$3,400 monetary donation and \$2,800 in-kind donation for the benefit of the Police Department; \$1,500 expense payable to Devices for Life, LLC, for 2-year Compliance Program Service (includes, service of AEDs, training and certification of Police personnel, annual compliance audits and consultation).

APPROVED: _____
Blair King, City Manager

Accept donation to the Lodi Police Department in the amount of \$3,400 for the purchase and installation of two Powerheart G3 Automatic Automated External Defibrillators and two cabinets and in-kind donation to the Police Department of two Powerheart G3 Automatic Automated External Defibrillators valued at \$2,800.

November 4, 2009

Page Two

FUNDING AVAILABLE: Funding is available from the Police Department's budget to cover the Compliance Program Service expense.

Jordan Ayers
Deputy City Manager/Internal Services Director

David J. Main
Chief of Police

cc: City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Consider Loaning Gram-O-Phone to World of Wonders Science Museum for Display

MEETING DATE: November 4, 2009

PREPARED BY: City Manager's Office

RECOMMENDED ACTION: Consider loaning the Gram-O-Phone to the World of Wonders Science Museum (WOW) for display.

BACKGROUND INFORMATION: The Kirst Family donated seven historic crank style record players to the City of Lodi in 2004. One is a particularly historic Gram-O-Phone brand mini player. The players have been stored since they were donated in hopes of finding an appropriate place to display them. In viewing the historic recording display at WOW, staff suggested that it may be an excellent place to display the Gram-O-Phone. WOW staff agree and indicated that they would construct a Plexiglas protective case and plaque recognizing the Kirst donation. Staff contacted representatives of the Kirst Family who support the loan of the Gram-O-Phone to WOW. The Gram-O-Phone will be returned to the City upon the termination of the recording display.

FISCAL IMPACT: N/A

FUNDING AVAILABLE: N/A

Blair King
City Manager

APPROVED: _____
Blair King, City Manager

Comments by the public on non-agenda items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted.

Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Comments by the City Council Members on non-agenda items



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Conduct a Public Hearing to Consider the Adoption of a Resolution to Update the Planning Division's Hourly Rate and Setting Various Fire Inspection Fees.

MEETING DATE: November 4, 2009

PREPARED BY: Community Development Department

RECOMMENDED ACTION: Conduct a public hearing to consider the adoption of a resolution to update the Planning Division's hourly rate and setting various fire inspection fees.

BACKGROUND INFORMATION: In June 2006, the City Council adopted the Planning Division hourly rate for billing purposes and setting the deposit amounts for various Planning applications. Since that time, the cost for personnel and services has increased. A new analysis was prepared by the Finance Department that indicates the fully burdened rate for Planning services to be \$132.00 per hour.

In August 2008, the City contracted with the firm MGT of America to prepare a cost of services analysis that would meet legal requirements and methodology for Building-related fees (this report is available for review upon request). The City Council adopted this methodology and a new fee schedule earlier this year. The fully burdened hourly rate for Building services was set at \$135.00 per hour. As part of this year's budget, the Community Development Department took on the tasks of providing Fire Inspection services for development related projects. We are now looking to apply the Building services hourly rate to those services. In 2005, the current Fire Department Fee schedule was approved by the City Council. That schedule based Fire Department fees at a rate of \$75.00 per hour. The fees shown in the attached table have been increased as a result in the difference in hourly rate from \$75.00 per hour to \$135.00 per hour.

The Building Industry Association has been notified about these fee changes. To date they have not provided any comment/concern.

FISCAL IMPACT: There should be a positive fiscal impact as a result of the recommended action by relating the revenue collected to the actual cost of service. The Community Development Department operates as a Special Revenue Fund which looks to set rates in order to not burden the General Fund for private development.

FUNDING AVAILABLE: N/A

Attachments

Konradt Bartlam
Community Development Director

APPROVED: _____
Blair King, City Manager

2009/10 Planning Division Hourly Rate		
Direct hourly rate	\$	78.90
Internal overhead hourly rate	\$	15.90
External overhead hourly rate	\$	19.87
Planning Division Hourly Rate	\$	114.68
15% reserve	\$	17.20
Total Rounded	\$	132.00

Direct Cost		
Planning Staff		142,228
Supplies/Materials		41,775
		<u>184,003</u>
Billable hours		2332
Direct hourly rate		78.90
Internal Overhead Cost		
Planning Commission (100%)		3,400
Administrative Secretary (40%)		33,680
		<u>37,080</u>
Billable hours		2332
Internal overhead hourly rate		15.90
External Overhead Cost		
Allocated Costs 2009 Revision		46,344
Billable hours		2332
External overhead hourly rate		19.87

New Development and Tenant Improvements**Plans Review**

<i>Site Planning</i>	
Annexation	150+
Land Use	150+
Lot Line Adjustments	150+
Parcel Map	150+
SPARC	150+
Zoning Variance	150+
Subdivision/Lot Splits	
1 – 4 Lots	150
5 – 24 Lots	300
25 or more Lots	450

Fire & Life Safety Plans Review and Inspections

Fire Review of Building Construction	
Add 25% to building plan check & permit fee	
Certificate of Occupancy (Fire)	75+ 135+

Fire Protection Equipment Plans Review and Inspections

Civil Improvement Site Plan (no underground inspection)	150+ 270+
Compressed Gas System (each)	
Hazardous Materials	375+ 675+
Medical Gas	450+ 810+
Fire Alarm System	450+ 810+
Fire Alarm System for Fire Sprinkler Monitor	300+ 540+
Fire Flow/Hydrant Test	150+ 270+
Fire Pump	900+ 1620+
Fire Sprinkler (per riser)	
1 – 6 Heads	225 405
7 – 19 Heads	375 675
20 – 99 Heads	750 1350
100 – 199 Heads	1,050 1890
>= 200 Heads (plus 0.50 per head)	1,350 2430
Halon/Clean Agent System	450+ 810+
Hood & Duct Fire Suppression System*(each)	300+ 540+
*hood requires separate building permit	
Plan Maintenance Fee*Add 5% 10% to plan check fee	
*compressed gas systems, fire alarm system, alarm system for sprinkler monitor, fire pump, fire sprinkler system, halon/ clean agent system, hood & duct suppression system, spray booth, standpipe/ hose stations	
Smoke Management Systems	750+ 1350+

Spray Booth (each)	450+ 810+
Standpipe/Hose Stations	150+ 270+

Miscellaneous Development

Administrative Charge	Fee
Design Review Consultation/Conference	75+
Minimum Intake Fee (not otherwise specified)	75 135
Second and Subsequent Plan Revision	
Submittals (each)	150 270
Temporary Certificate of Occupancy	150
Special Plan Review Request	
After Hours	225+ 405+
Not Otherwise Specified	150+ 270+
Cancellation— < 24 hours notice, not ready, no show	75 135
Technical Report/Alternate Materials or Methods*	
*per code item plus consultant fee plus 20% admin fee	150+ 270+

Annual Fire and Life Safety Inspections**State Mandated Inspections**

E-3 Occupancies—Day Care	
7 – 49 clients	150+
50 – 149 clients	187.50+
>= 150 clients	225+
Pre-inspection <= 25 clients	50
Pre-inspection > 25 clients	100
I Occupancies—Institution	
I-1 or I-2 occupancies < 6 patients	150+
I-1 or I-2 occupancies >= 6 patients	225+
I-3 occupancies (detention)	no charge
R-1 Occupancies—Apartments/Hotels/Motels	
3 – 16 units	112.50+
17 – 32 units	150+
>= 33 units	187.50+
R-2 Occupancies—Residential Care Facilities	
>= 7 residents	225+
Pre-inspection < 25 residents	50
Pre-inspection >= 26 residents	100
R-3 Occupancies—Large Family Day Care	
7 – 14 clients	75+
Pre-inspection	50
R-6 Occupancies—Halfway Houses, etc.	
>= 7 residents	225+
Pre-inspection < 25 residents	50
Pre-inspection >= 26 residents	100

Business Fire & Life Safety Inspections**Fire Company Business Inspection**

Initial plus 1 re-inspect	no charge
Additional re-inspections (each)	75+

Miscellaneous Charges

Administrative Charge	Fee
Appeals (Fire Chief denies application)	250
Environmental Impact Report Document Search	75+
Other Activities Not Listed	75+ 135+
Refund Processing	37.50 67.50
Weed Abatement (per parcel)	150+
Emergency Response (per company)	
Hazardous Materials	131+
False Alarms—2 or fewer per calendar year	no charge
Third False Alarm	75
Fourth False Alarm	150
Fifth and Subsequent (each)	393
Contact not at scene in 60 minutes	131
Failure to notify LFD of test	131
Fire Investigations (per person)	75+
Fire Reports and Other Documents (per page)	0.25
Investigation—No Construction Permit	75+
Occupancy Load Calculation	75+
Photograph Reproduction (per print)	
Actual cost plus 20% admin fee	
Standby (per person)	75+
Standard Hourly Rate	
LFD Personnel	75
Engine or Truck Company	131

+ Minimum Fee, actual cost may vary

Fees based on \$75 \$135 per hour (in quarter-hour increments)

RESOLUTION NO. 2009-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE PLANNING DIVISION HOURLY
RATE AND SETTING VARIOUS FIRE CODE
RELATED FEES

=====

WHEREAS, the Lodi Municipal Code requires the City Council to set fees for various services provided by the City of Lodi to recover the costs associated with providing specific services and programs.

NOW, THEREFORE, BE IT RESOLVED that the City Council finds as follows:

1. That the Planning Division hourly rate of \$132.00 per hour attached hereto as Exhibit A, is approved; and
2. That the Fire Code related permit/inspection fees attached hereto as Exhibit B, are approved; and
3. All resolutions or parts of resolutions in conflict herewith are repealed insofar as such conflict may exist; and
4. This resolution shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect on _____, 2009, which date is at least thirty (30) days after the passage of this Resolution.

Dated: November 4, 2009

=====

I hereby certify that Resolution No. 2009-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk

2009-_____

EXHIBIT A

2009/10 Planning Division Hourly Rate		
Direct hourly rate	\$	78.90
Internal overhead hourly rate	\$	15.90
External overhead hourly rate	\$	19.87
Planning Division Hourly Rate	\$	114.68
15% reserve	\$	17.20
Total Rounded	\$	132.00

Direct Cost		
Planning Staff		142,228
Supplies/Materials		41,775
		<u>184,003</u>
Billable hours		2332
Direct hourly rate		78.90
Internal Overhead Cost		
Planning Commission (100%)		3,400
Administrative Secretary (40%)		33,680
		<u>37,080</u>
Billable hours		2332
Internal overhead hourly rate		15.90
External Overhead Cost		
Allocated Costs 2009 Revision		46,344
Billable hours		2332
External overhead hourly rate		19.87

New Development and Tenant Improvements**Plans Review**

<i>Site Planning</i>	
Annexation	150+
Land Use	150+
Lot Line Adjustments	150+
Parcel Map	150+
SPARC	150+
Zoning Variance	150+
Subdivision/Lot Splits	
1 – 4 Lots	150
5 – 24 Lots	300
25 or more Lots	450

Fire & Life Safety Plans Review and Inspections

Fire Review of Building Construction	
Add 25% to building plan check & permit fee	
Certificate of Occupancy (Fire)	75+ 135+

Fire Protection Equipment Plans Review and Inspections

Civil Improvement Site Plan (no underground inspection)	150+ 270+
Compressed Gas System (each)	
Hazardous Materials	375+ 675+
Medical Gas	450+ 810+
Fire Alarm System	450+ 810+
Fire Alarm System for Fire Sprinkler Monitor	300+ 540+
Fire Flow/Hydrant Test	150+ 270+
Fire Pump	900+ 1620+
Fire Sprinkler (per riser)	
1 – 6 Heads	225 405
7 – 19 Heads	375 675
20 – 99 Heads	750 1350
100 – 199 Heads	1,050 1890
>= 200 Heads (plus 0.50 per head)	1,350 2430
Halon/Clean Agent System	450+ 810+
Hood & Duct Fire Suppression System*(each)	300+ 540+
*hood requires separate building permit	
Plan Maintenance Fee*Add 5% 10% to plan check fee	
*compressed gas systems, fire alarm system, alarm system for sprinkler monitor, fire pump, fire sprinkler system, halon/ clean agent system, hood & duct suppression system, spray booth, standpipe/ hose stations	
Smoke Management Systems	750+ 1350+

Spray Booth (each)	450+ 810+
Standpipe/Hose Stations	150+ 270+

Miscellaneous Development

Administrative Charge	Fee
Design Review Consultation/Conference	75+
Minimum Intake Fee (not otherwise specified)	75 135
Second and Subsequent Plan Revision	
Submittals (each)	150 270
Temporary Certificate of Occupancy	150
Special Plan Review Request	
After Hours	225+ 405+
Not Otherwise Specified	150+ 270+
Cancellation— < 24 hours notice, not ready, no show	75 135
Technical Report/Alternate Materials or Methods*	
*per code item plus consultant fee plus 20% admin fee	150+ 270+

Annual Fire and Life Safety Inspections**State Mandated Inspections**

E-3 Occupancies—Day Care	
7 – 49 clients	150+
50 – 149 clients	187.50+
>= 150 clients	225+
Pre-inspection <= 25 clients	50
Pre-inspection > 25 clients	100
I Occupancies—Institution	
I-1 or I-2 occupancies < 6 patients	150+
I-1 or I-2 occupancies >= 6 patients	225+
I-3 occupancies (detention)	no charge
R-1 Occupancies—Apartments/Hotels/Motels	
3 – 16 units	112.50+
17 – 32 units	150+
>= 33 units	187.50+
R-2 Occupancies—Residential Care Facilities	
>= 7 residents	225+
Pre-inspection < 25 residents	50
Pre-inspection >= 26 residents	100
R-3 Occupancies—Large Family Day Care	
7 – 14 clients	75+
Pre-inspection	50
R-6 Occupancies—Halfway Houses, etc.	
>= 7 residents	225+
Pre-inspection < 25 residents	50
Pre-inspection >= 26 residents	100

Business Fire & Life Safety Inspections

Fire Company Business Inspection

Initial plus 1 re-inspect	no charge
Additional re-inspections (each)	75+

Miscellaneous Charges

Administrative Charge	Fee
Appeals (Fire Chief denies application)	250
Environmental Impact Report Document Search	75+
Other Activities Not Listed	75+ 135+
Refund Processing	37.50 67.50
Weed Abatement (per parcel)	150+
Emergency Response (per company)	
Hazardous Materials	131+
False Alarms—2 or fewer per calendar year	no charge
Third False Alarm	75
Fourth False Alarm	150
Fifth and Subsequent (each)	393
Contact not at scene in 60 minutes	131
Failure to notify LFD of test	131
Fire Investigations (per person)	75+
Fire Reports and Other Documents (per page)	0.25
Investigation—No Construction Permit	75+
Occupancy Load Calculation	75+
Photograph Reproduction (per print)	
Actual cost plus 20% admin fee	
Standby (per person)	75+
Standard Hourly Rate	
LFD Personnel	75
Engine or Truck Company	131

+ Minimum Fee, actual cost may vary

Fees based on \$75 \$135 per hour (in quarter-hour increments)

EXHIBIT B



***Please immediately confirm receipt
of this fax by calling 333-6702***

CITY OF LODI
P. O. BOX 3006
LODI, CALIFORNIA 95241-1910

ADVERTISING INSTRUCTIONS

**SUBJECT: PUBLIC HEARING TO CONSIDER UPDATED PLANNING DIVISION'S
HOURLY RATE AND SETTING VARIOUS FIRE INSPECTION FEES**

PUBLISH DATE: SATURDAY, OCTOBER 24, 2009


LEGAL AD

TEAR SHEETS WANTED: One (1) please

SEND AFFIDAVIT AND BILL TO: RANDI JOHL, CITY CLERK
City of Lodi
P.O. Box 3006
Lodi, CA 95241-1910

DATED: THURSDAY, OCTOBER 22, 2009

**ORDERED BY: RANDI JOHL
CITY CLERK**

JMR

JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK

MARIA BECERRA
ADMINISTRATIVE CLERK

Verify Appearance of this Legal in the Newspaper – Copy to File

LNS	Faxed to the Sentinel at 369-1084 at <u>10:12am</u> (time) on <u>10/22/09</u> (date) <u>2</u> (pages)
	Phoned to confirm receipt of all pages at _____ (time) JMR _____ CF _____ MB (initials)



DECLARATION OF POSTING

PUBLIC HEARING TO CONSIDER UPDATED PLANNING DIVISION'S HOURLY RATE AND SETTING VARIOUS FIRE INSPECTION FEES

On Friday, October 23, 2009, in the City of Lodi, San Joaquin County, California, a Notice of Public Hearing to consider updated Planning Division's hourly rate and setting various Fire Inspection fees (attached and marked as Exhibit A) was posted at the following locations:

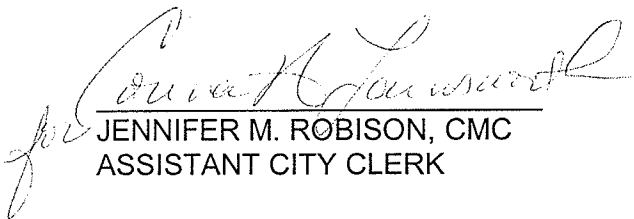
Lodi Public Library
Lodi City Clerk's Office
Lodi City Hall Lobby
Lodi Carnegie Forum

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 23, 2009, at Lodi, California.

ORDERED BY:

**RANDI JOHL
CITY CLERK**

A handwritten signature in cursive script, appearing to read "Jennifer M. Robison", is written over a horizontal line.

**JENNIFER M. ROBISON, CMC
ASSISTANT CITY CLERK**

**MARIA BECERRA
ADMINISTRATIVE CLERK**



CITY OF LODI

Carnegie Forum
305 West Pine Street, Lodi

NOTICE OF PUBLIC HEARING

Date: November 4, 2009

Time: 7:00 p.m.

For information regarding this notice please contact:

Randi Johl

City Clerk

Telephone: (209) 333-6702

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on **Wednesday, November 4, 2009**, at the hour of 7:00 p.m., or as soon thereafter as the matter may be heard, the City Council will conduct a public hearing at the Carnegie Forum, 305 West Pine Street, Lodi, to consider the following item:

- a) Updated Planning Division's hourly rate and setting various Fire Inspection fees.**

Information regarding this item may be obtained in the Community Development Department, 221 West Pine Street, Lodi, (209) 333-6711. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk, City Hall, 221 West Pine Street, 2nd Floor, Lodi, 95240, at any time prior to the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 221 West Pine Street, at or prior to the close of the public hearing.

By Order of the Lodi City Council:

Randi Johl
City Clerk

Dated: October 21, 2009

Approved as to form:

D. Stephen Schwabauer
City Attorney



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive A Report on Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to Southerly Limits of the White Slough Water Pollution Control Facility

MEETING DATE: November 4, 2009

PREPARED BY: Community Development Director

RECOMMENDED ACTION: Receive a report on Draft Environmental Impact Report/Environmental Assessment for I-5 Widening from Stockton to southerly limits of the White Slough Water Pollution Control Facility and take appropriate action.

BACKGROUND INFORMATION: This item is being brought to the City Council as an informational item. The Council may want to discuss and provide direction for additional follow up action.

The Draft Environmental Impact Report/Environmental Assessment analyzes a proposed project that will build freeway and interchange improvements from 0.2 mile south of Charter Way/Martin Luther King Jr. Boulevard to 1.8 miles north of Eight Mile Road in northwest Stockton. The document was prepared by CalTrans. The stated purpose of the project is as follows:

- Reduce traffic congestion and delay on Interstate 5
- Encourage High-Occupancy Vehicle use in the Interstate 5 corridor within the project area
- Improve regional mobility
- Provide a balanced circulation system and reduce out-of-direction travel

As stated in the document "The project is needed because northwest Stockton has been and is expected to continue experiencing substantial traffic growth, both locally from new area development and regionally from nearby communities such as Sacramento, Lodi, Lathrop, Manteca, and Tracy." The complete document is available on-line at:

http://www.dot.ca.gov/dist10/environmental/projects/i5nstkn/PDFfactsheet/20090917_Signed%20EIR_EA_I-5Interchanges.pdf

The portion of the project which staff is focused on with this review is the new interchange designated as North Gateway Boulevard. This interchange would occur approximately 1.8 miles north of Eight Mile Road (Exhibit "A"). The proposed interchange is within the current Stockton General Plan which abuts the City of Lodi's White Slough property (Exhibit "B"). The document states that the new interchange "would improve local access to Interstate 5, reduce demands at existing interchanges, and connect a planned regional arterial with Interstate 5." The City of Stockton is proposing a new east-west expressway along Stockton's northerly boundary.

APPROVED: _____
Blair King, City Manager

To a certain extent, this document simply implements Stockton's approved General Plan which designates this area north of Eight Mile Road for a variety of urban land uses many of which have already been approved.

ENVIRONMENTAL IMPACTS: The document outlines a variety of potential environmental impacts. Staff believes there are two topic areas that deserve additional discussion within the report.

Section 2.1.2 Growth The California Environmental Quality Act (CEQA) requires that an analysis of a project's potential to induce growth be incorporated in an EIR. The discussion outlined in the document states that "The proposed project would not directly affect growth within the Stockton region or San Joaquin County, but accessibility in the project area would change. Specific to the proposed interchange north of eight Mile Road, we disagree with the statement. Further, the document states "Both the 2035 Stockton General Plan and the 2010 San Joaquin General Plan do not project any potential growth as a result of the proposed project; only transportation circulation would improve in the region. The addition of North Gateway Boulevard and Otto Drive interchanges would handle increased traffic volumes from ongoing population and housing growth in this region of Stockton. We believe there is a direct connection between the need for this project and the growth anticipated through the Stockton General Plan. Without one, the other would/could not occur.

Section 2.1.3 Farmlands/Timberlands Construction of the project would convert approximately 58 acres of agricultural soils to urban (highway) uses. Most of that impact occurs within the existing right-of-way of Interstate 5 south of Eight Mile Road. According to the California Department of Conservation, approximately five acres of Prime and Unique Farmland is impacted by the project slated north of Eight Mile Road. The document states that the amount of agricultural land to be converted is "negligible" compared to the total amount of farmland in San Joaquin County or in California. While staff agrees that the amount of acreage is not substantial when compared to the entire County or State, we do believe that the resulting loss is a significant impact under CEQA that should be mitigated. An additional concern related to this discussion is the missing Farmland Conversion Impact Rating form. The discussion within this section refers to Appendix H, which is not included. Further, the document indicates that Appendix G contains this information; however, it is not included.

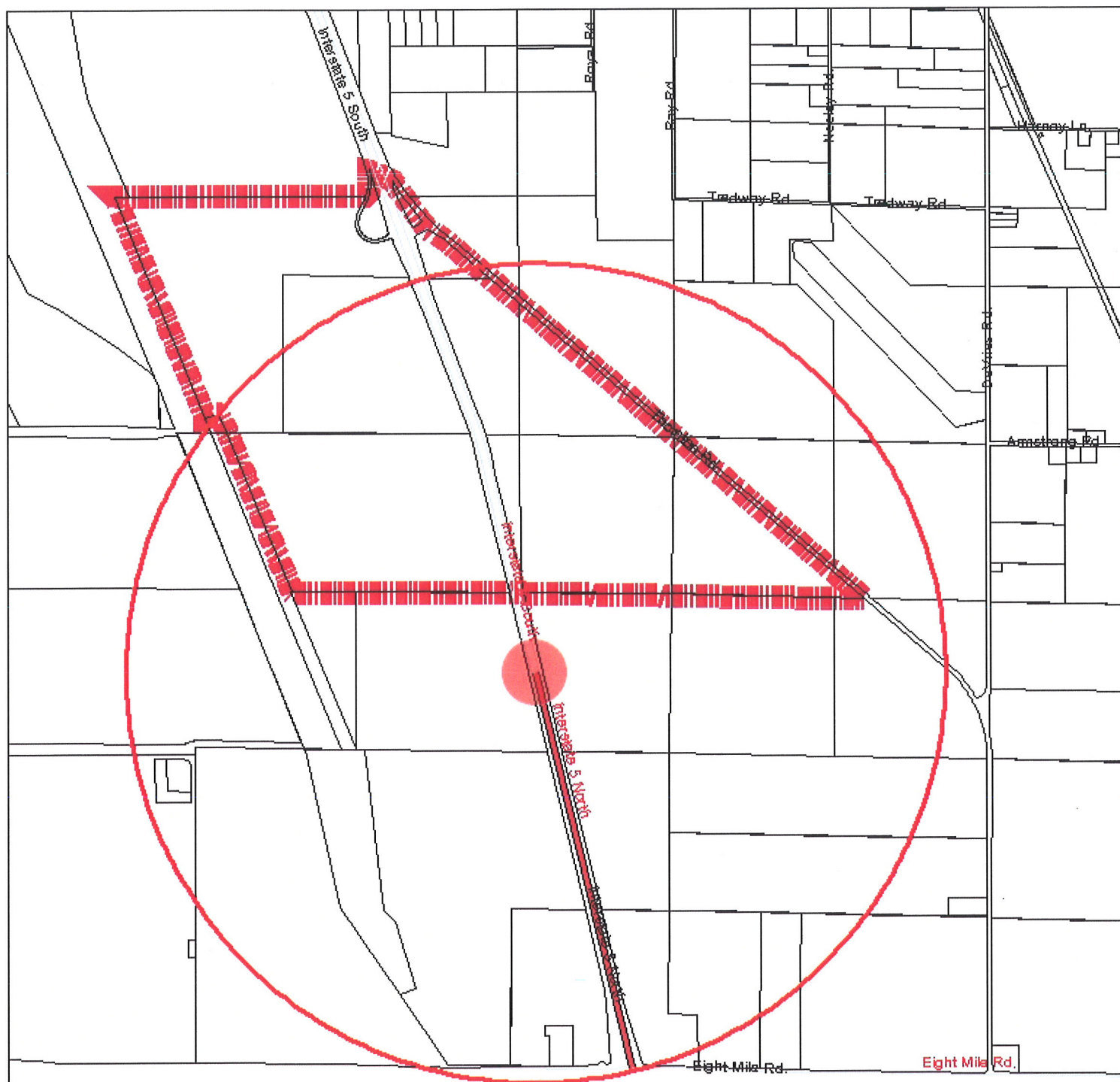
The final area of staff's review is the schedule and estimated costs of the project. The entire project is broken down into five phases. All phases are scheduled to be completed by 2015 with an estimated cost of over \$589,000,000. The fifth phase is the North Gateway Interchange including auxiliary lanes to Eight Mile Road. This phase alone is estimated at \$63,000,000. The funding sources identified for the entire project are a combination of San Joaquin Measure K Renewal Funds, City of Stockton Public Facility Fee funds and State Transportation Improvement Program (STIP) funds.

FISCAL IMPACT: N/A

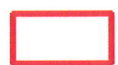
Konradt Bartlam
Community Development Director

KB/kjc

Attachments:



Legend



1.3 Mile Radius



Proposed off-ramp Location



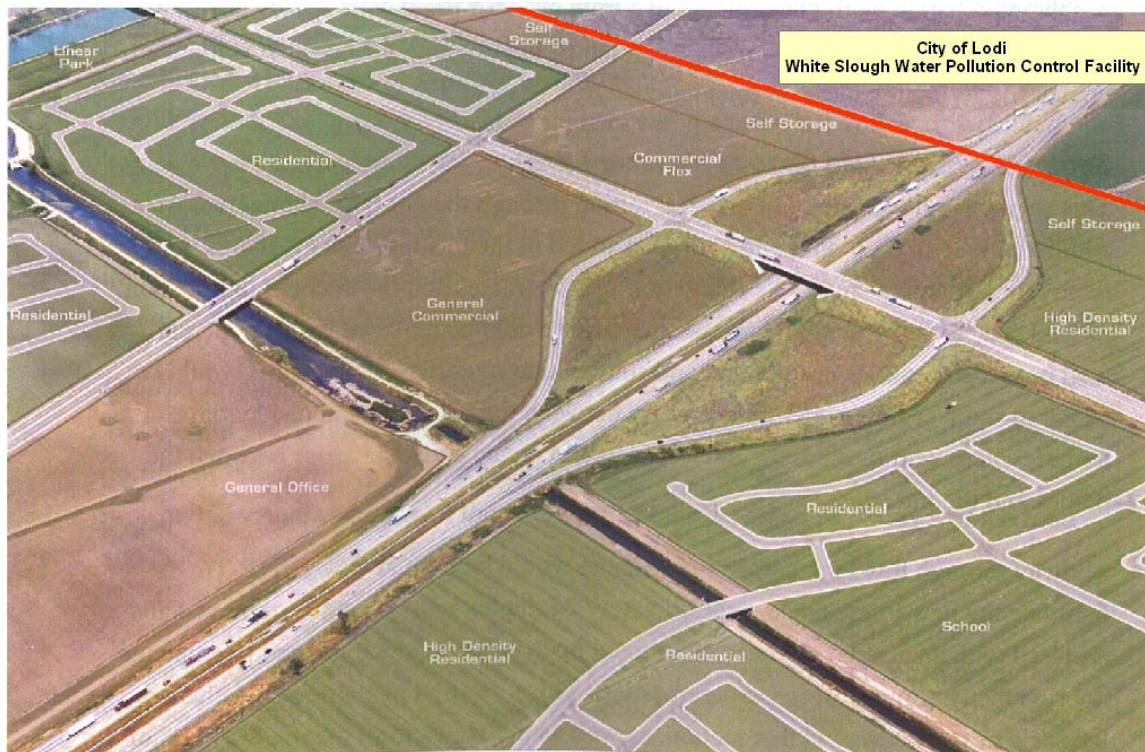
Exact distance to Eight Mile Road 1.2628025038 mile



City Limits



Existing



Proposed



CITY OF LODI COUNCIL COMMUNICATION

TM

AGENDA TITLE: Introduce State Video Franchise Ordinance, Establishing the Obligations of Cable Operators Providing Service in the City of Lodi Under a State Franchise Agreement

MEETING DATE: November 4, 2009

PREPARED BY: City Manager's Office

RECOMMENDED ACTION: Introduce the State video franchise ordinance establishing the obligations of cable operators providing service in the City of Lodi under a State Franchise Agreement.

BACKGROUND INFORMATION: In September 2006, Governor Schwarzenegger signed into law AB 2987, known as the Digital Infrastructure and Video Competition Act of 2006 (DIVCA), which established a new framework for the regulation of cable television. Prior to 2007, no cable company was allowed to construct or operate a cable television system in any California city without receiving a franchise or license to operate from the city. This structure allowed cities to negotiate terms of their local franchise agreements, covering all aspects of operation from customer service standards to franchise fees. Under DIVCA, the power to issue franchise agreements belongs solely to the California Public Utilities Commission.

Because of that, the City needs a new ordinance that reflects the change. Comcast and AT&T now provide video service within the City of Lodi under franchise agreements issued by the CPUC and not the City of Lodi. Without a local DIVCA ordinance, the City is toothless in enforcing customer service standards and ensuring the video companies are paying the proper franchise fees.

A summary of the changes under DIVCA:

- By obtaining state franchises, video companies have the right to use/build in the public right-of-way in exchange for a franchise fee. Cities still have the right to require encroachment permits and may regulate the time, place and manner of installation of the cable infrastructure. This ordinance affirms that right.
- DIVCA established the franchise fee that requires companies to pay 5 percent of gross revenues for operations in each city. Again, this ordinance affirms that right.
- DIVCA requires state franchise holders to comply with state and federally mandated service standards (attached). Cities, however, will be responsible for enforcing the standards. Adopting the ordinance gives the City that ability.
- Cities are required to establish a schedule of penalties for any material breach of the state and federal customer service standards. This ordinance establishes a schedule of these penalties.
- Previously, cities had great latitude for negotiating the operating and financial support that cable companies would provide for Public, Educational and Government (PEG) channels

APPROVED: _____
Blair King, City Manager

through the local franchise agreement. Under DIVCA, cities can require a fee of up to 1 percent of gross operating revenues for PEG support via ordinance (or continue an existing PEG fee of up to 3 percent). This ordinance establishes a 1 percent fee. Under our previous local franchise agreement, we did not receive a PEG fee from Comcast or its predecessors because the cable companies provided noncash support through equipment and labor. Cities, however, can no longer require noncash benefits such as cable service to community buildings, staff support for broadcasting, provision of audio and video equipment and access to studio facilities.

- Cities may examine the cable companies' business records to ensure full payment of franchise fees. The City affirms that right in the proposed ordinance.

The new situation under DIVCA, which prevents cities from requiring support for PEG programming, presents the biggest change, challenge and opportunity for the City of Lodi. Comcast notified the City in May 2009 that it would phase out staffing support for broadcasting City Council meetings. We have completed this transition. In September, City staff began operating the cameras and other video equipment at the Carnegie Forum during City Council meetings.

Adopting the maximum 1 percent PEG fee will raise approximately \$80,000 in annual PEG revenue from Comcast and AT&T for local public access needs. With the end of Comcast's noncash support, the City needs a new revenue source to provide a similar level of service. For instance, the City does not have the technical capability to transmit broadcasts of City Council or any other meeting from the Community Center theater, which has been chosen on two occasions in the past year as the venue for meetings with widespread interest. Also, the existing video equipment at the Carnegie Forum is aging and will eventually need replacing.

A local PEG fee, which typically appears as a separate line on cable customers' bills, would generate the money needed for those equipment needs. In addition, implementing a local PEG fee opens other possibilities, such as having the equipment to film and broadcast other community events, creating local public service announcements, covering local musical talent to producing shows of local interests. DIVCA does not allow the City to use those funds for operations.

If we do not adopt an ordinance establishing the obligations of local video companies and PEG fee, any equipment purchases for local programming will occur on an as-needed basis with the General Fund absorbing the cost. Also, the City will not be able to exert the limited authority available through DIVCA, such as enforcing State and federal customer service standards.

FISCAL IMPACT: Adopting the ordinance with a 1-percent PEG fee will generate approximately \$80,000 per year for video-related capital acquisition/repairs. For a customer subscribing only to the 100-channel digital starter service, the increased cost would be approximately 58 cents a month.

FUNDING AVAILABLE: Not applicable.

Jeff Hood
Communications Specialist

Attachments:

- A: Proposed Ordinance
- B: California Public Utilities Code 5870 (PEG)
- C: Various state and federal customer service regulations

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING LODI MUNICIPAL CODE TITLE 5 – PERMITS AND
REGULATIONS – BY ADDING CHAPTER 5.17, “STATE VIDEO
FRANCHISES”

=====

WHEREAS, the Legislature of the State of California (the State) has adopted the Digital Infrastructure and Video Competition Act of 2006 (DIVCA); and

WHEREAS, the Governor of the State of California signed DIVCA on September 29, 2006; and

WHEREAS, DIVCA became effective on January 1, 2007; and

WHEREAS, DIVCA establishes a regulatory structure for the State to issue franchises to video service providers; and

WHEREAS, DIVCA establishes that local entities, such as the City of Lodi, are responsible for administration and implementation of certain provisions of DIVCA; and

WHEREAS, DIVCA requires that the City establish, by ordinance, financial support provisions for Public, Educational and Governmental Access (PEG) channel facilities; and

WHEREAS, DIVCA requires that the City adopt, by ordinance or resolution, a schedule of penalties for any material breach by a State video franchise holder for violation of customer service and protection standards that the City is permitted to enforce; and

WHEREAS, as of November 4, 2009, there are two State-franchised cable operators providing cable service within the City; and

WHEREAS, two of the cable franchises in the City are held by Comcast and AT&T; and

WHEREAS, former City franchise-holder Comcast no longer provides noncash support to the City for PEG programming or facilities;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Lodi Municipal Code Title 5 – Permits and Regulations – is hereby amended by adding Chapter 5.17, “State Video Franchises” to read as follows:

CHAPTER 5.17 STATE CABLE TELEVISION FRANCHISES

Section:

5.17.010 Purpose.

5.17.020 Definitions and Interpretation of Language.

5.17.030 State Franchise Holder Fee.

- 5.17.040 State Franchise Holder PEG Fees.
- 5.17.050 Payment of Fees.
- 5.17.060 Audits.
- 5.17.070 Late Payments.
- 5.17.080 Lease of City Property or Network.
- 5.17.090 Customer Service and Consumer Protection Standards.
- 5.17.100 Penalties for Violations of Standards.
- 5.17.110 General Requirements.
- 5.17.120 Permits.
- 5.17.130 Terms and Conditions.
- 5.17.140 Relocation of Franchise Property and Appurtenances.
- 5.17.150 Removal of Abandoned Facilities.
- 5.17.160 Notification to Residents Regarding Construction or Maintenance.
- 5.17.170 Identification Required.
- 5.17.180 Construction Requirements and Protection of Health and Safety.

- 5.17.200 Emergency Alert Systems.
- 5.17.210 Interconnection for PEG Programming.
- 5.17.220 Notices.
- 5.17.230 Rights Reserved.
- 5.17.240 Compliance with Law.

5.17.010 PURPOSE.

This Chapter applies to all cable service or video service providers who are applying for, or have been awarded, a franchise under California Public Utilities Code Section 5800 et seq., the Digital Infrastructure and Video Competition Act of 2006, ("DIVCA"), to serve any area within the City of Lodi, including any cable service or video service providers who are subject to DIVCA. By this Chapter the City of Lodi intends to assume to the fullest extent possible all obligations, rights and privileges afforded to it by DIVCA and any other applicable law. Moreover, to the extent this Ordinance is pre-empted by DIVCA now or as amended in the future, the requirement of DIVCA shall control.

5.17.020 DEFINITIONS AND INTERPRETATION OF LANGUAGE.

For purposes of this Chapter, the following terms, phrases, words, and their derivations shall have the meaning given in this section. Unless otherwise expressly stated, words not defined in this Chapter shall be given the meaning set forth in California Public Utilities Code, Section 5800 et seq. as amended from time to time. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and "including" and "include" are not limiting. The word "shall" is always mandatory.

- (a) Access, PEG access, PEG use, or PEG. "Access," "PEG access," "PEG use," or "PEG" means the availability of a cable or video system for public, educational, or governmental use by various agencies, institutions, organizations, groups, and individuals, including the City of Lodi and its City use channels or any existing agreement between the City and any incumbent cable operator, to acquire, create, and distribute programming not under a state franchise holder's editorial control.

- (b) City. "City" means the City of Lodi, California.
- (c) City Council. "City Council" means the City Council of the City of Lodi.
- (d) City Manager. "City Manager" means the City Manager of the City of Lodi or his or her designee.
- (e) Gross revenues. "Gross revenues" means all revenues actually received by the holder of a state franchise that are derived from the operation of the holder's network to provide cable service or video service within the incorporated areas of the City, subject to the specifications of California Public Utilities Code Section 5860.
- (f) Director. "Director" means the Deputy City Manager/Internal Services Director of the City of Lodi or his or her designee.
- (g) State Franchise Holder, Holder of a State Franchise, Holder of the State Franchise, or Holder. "State Franchise Holder," "holder of a state franchise," "holder of the state franchise," or "holder" means any person or group of persons who has been issued a franchise by the California Public Utilities Commission to provide cable service or video service, as those terms are defined in Public Utilities Code Section 5830, within any portion of the City of Lodi.

5.17.030 STATE FRANCHISE HOLDER FEE.

Any State Franchise Holder operating within the City shall pay to the City a State Franchise Holder fee equal to five percent of gross revenues, as defined in this Chapter and applicable law. Nothing in this section is intended to limit the City's ability to impose utility user taxes and other generally applicable taxes, fees and charges that are applied in a nondiscriminatory and competitively neutral manner.

5.17.040 STATE FRANCHISE HOLDER PEG FEES.

Any State Franchise Holder operating within the City shall pay to the City a PEG fee equal to one percent of gross revenues, as defined in this Chapter and applicable law, unless a different amount is payable in accordance with applicable law or resolution adopted by the City Council.

5.17.050 PAYMENT OF FEES.

The State Franchise Holder shall pay quarterly all fees required pursuant to this Chapter in a manner consistent with Public Utilities Code Section 5860. The State Franchise Holder shall deliver to the City by check or other means agreeable to the City Manager, a separate payment for the state franchise fee and the PEG fee not later than forty-five days after the end of each calendar quarter. Each payment made shall be accompanied by a summary explaining the basis for the calculation of the fees.

5.17.060 AUDITS.

The City may examine the business records of the holder of a State Franchise in a manner not inconsistent with California Public Utilities Code Section 5860(i).

5.17.070 LATE PAYMENTS.

In the event a State Franchise Holder fails to make any payment required by this Chapter on or before the due dates specified in this Chapter, the City shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent unless a different rate is set by applicable law or resolution adopted by the City Council.

5.17.080 LEASE OF CITY PROPERTY OR NETWORK.

To the extent not inconsistent with California Public Utilities Code Section 5840(q)(2)(B), in the event a State Franchise Holder desires to lease access to City property beyond the access conferred by its State Franchise or to a network owned or controlled by the City, the City may set terms and charge a fee for access to the property or City network separate and apart from any franchise fee or other fee charged to the State Franchise Holders pursuant to this Chapter. The City Council may set any such fee by resolution.

5.17.090 CUSTOMER SERVICE AND CONSUMER PROTECTION STANDARDS.

Each State Franchise Holder shall comply with all applicable customer service and consumer protection standards, including, to the extent not inconsistent with California Public Utilities Code Section 5900, all existing and subsequently enacted customer service and consumer protection standards established by local, state or federal law and regulation.

5.17.100 PENALTIES FOR VIOLATIONS OF STANDARDS.

- (a) The City shall monitor compliance with and enforce the provisions of this Chapter and DIVCA.
- (b) For any material breach, as defined in California Public Utilities Code Section 5900(j), by a State Franchise Holder of applicable customer service and consumer protection standards, the City Manager, or the City Manager's designee, in his or her sole discretion may impose the following fines or penalties:
 - (1) For the first occurrence of a material breach, a fine of five hundred dollars shall be imposed for each day the violation remains in effect, not to exceed one thousand five hundred dollars for each violation.
 - (2) For a second material breach of the same nature within twelve months, a fine of one thousand dollars shall be imposed for each day the violation remains in effect, not to exceed three thousand dollars for each violation.
 - (3) For a third or further material breach of the same nature within twelve months, a fine of two thousand five hundred dollars shall be imposed for each day the violation remains in effect, not to exceed seven thousand five hundred dollars for each violation.

- (c) Any penalties imposed by the City shall be imposed in a manner not inconsistent with California Public Utilities Code Section 5900.
- (d) To the extent not inconsistent with California Public Utilities Code Section 5900, the City, acting through its City Manager or his or her designee, in its sole discretion may waive, modify, or defer the imposition of a penalty.

5.17.110 GENERAL REQUIREMENTS.

Except as expressly provided in this Chapter, the provisions of this Chapter shall apply to all work performed by or on behalf of a State Franchise Holder upon, above or below any street, highway, sidewalk, parkway, alley or other public right-of-way of any kind whatsoever within the City.

5.17.120 PERMITS.

- (a) Prior to commencing any work, a State Franchise Holder shall apply for and obtain a permit in accordance with the applicable provisions of this Chapter and Chapter 12.04 of this Code and shall comply with all other applicable laws and regulations, including, but not limited to, all applicable requirements of Public Resources Code Section 21000 et seq. (the California Environmental Quality Act).
- (b) The Public Works Director shall either approve or deny a State Franchise Holder's application for any permit required under this Chapter in accordance with the applicable terms of Chapter 12.04.
- (c) If the Public Works Director denies a State Franchise Holder's application for a permit, the Director shall, at the time of notifying the applicant of denial, furnish to the applicant an explanation of the reason or reasons for the denial.
- (d) A State Franchise Holder that has been denied a permit by final decision of the Public Works Director may appeal the denial to the City Council whose decision shall be final. Upon receiving a notice of appeal, the City Council shall consider the permit de novo.
- (e) A State Franchise Holder whose permit has been revoked may appeal that decision to the City Council in writing within ten (10) days after issuance of the notice of revocation.

5.17.130 TERMS AND CONDITIONS.

The work of constructing, laying, replacing, maintaining, repairing, abandoning, or removing all property and appurtenances of the State Franchise Holder in, over, under, along, or across any City right-of-way as defined in Chapter 12.04 shall be done to the satisfaction of the Public Works Director and, except where a different outcome is prescribed by applicable law, at the expense of the State Franchise Holder, and in accordance with the terms and conditions of Chapter 12.04.

5.17.140 RELOCATION OF FRANCHISE PROPERTY AND APPURTENANCES.

- (a) The City reserves the right to change the grade, change the width, or alter or change the location of any City right-of-way. If any Franchise Holder's property or appurtenance is installed or maintained by the State Franchise Holder on, along, under, over, in, upon, or across any public right-of way in a manner which prevents or interferes with any alteration or other change of grade, traffic needs, operation, maintenance, improvement, repair, construction, reconstruction, widening, or relocation of the right-of-way, or any work or improvement upon the right-of-way, the State Franchise Holder shall relocate any such property or appurtenances to the satisfaction of the Public Works Director, and, to the extent consistent with existing law at no expense to the City, upon receipt of a written request from the Director to do so and in accordance with the terms of Chapter 12.04. Should the State Franchise Holder neglect or fail to relocate its facilities in a timely manner as required by law after receipt of any such notice, the State Franchise Holder shall be responsible for and shall reimburse the City for any and all costs or expenses incurred by City due to or arising from the failure to relocate the facilities.
- (b) The City reserves the right to lay, construct, repair, alter, relocate, and maintain subsurface or other facilities or improvements of any type or description in a governmental and water, sewer and Electric Utility capacity, but not in a proprietary capacity within the right-of-way over which the franchise is granted. If the City finds that the location or relocation of such facilities or improvements conflicts with the property or appurtenances laid, constructed, or maintained by the State Franchise Holder, the City shall notify the State Franchise Holder of such conflict. To the extent and in the manner required by applicable law, the State Franchise Holder will relocate its facilities as requested by the City.

5.17.150 REMOVAL OF ABANDONED FACILITIES.

Upon the abandonment of all or a portion of its property, the State Franchise Holder shall remove the property in accordance with the terms of Chapter 12.04. If the State Franchise Holder fails to comply with the terms and conditions of abandonment as may be required by this Chapter and Chapter 12.04, the Director of Public Works may direct the State Franchise Holder to remove, or cause to be removed, such facilities at the State Franchise Holder's expense and the State Franchise Holder shall pay to the City the cost of such work. Such decision may be appealed by the State Franchise Holder to the City Council.

5.17.160 NOTIFICATION TO RESIDENTS REGARDING CONSTRUCTION OR MAINTENANCE.

- (a) Prior to any construction activity related to any cable service or video service, a State Franchise Holder shall provide public notification as required by applicable law.
- (b) To the extent practicable, equipment placed on private property shall be placed at the location requested by the property owner..

5.17.170 IDENTIFICATION REQUIRED.

Employees, agents, contractors, and subcontractors of any State Franchise Holder shall at all times be properly identified as employees or agents of the State Franchise Holder while performing any work or other activity within the City on behalf of the State Franchise Holder. Identification shall include the name of the employee or agent. The name and telephone number of the State Franchise Holder shall appear at all construction sites.

5.17.180 CONSTRUCTION REQUIREMENTS AND PROTECTION OF HEALTH AND SAFETY.

Each State Franchise Holder shall comply with all applicable construction requirements of Chapter 12.04 and shall undertake all necessary and appropriate means to protect and preserve health and safety, including complying with all construction requirements of Chapter 12.04 or as otherwise required by the Director of Public Works.

5.17.200 EMERGENCY ALERT SYSTEMS.

Each State Franchise Holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the State Franchise Holder's network.

5.17.210 INTERCONNECTION FOR PEG PROGRAMMING.

Each holder of a State Franchise and each incumbent cable operator operating under a City franchise issued pursuant to this Code, shall negotiate with each other in good faith to interconnect their networks for the purpose of providing PEG programming including, but not limited to, any exclusive City use channel. Interconnection may be accomplished by any means authorized under California Public Utilities Code Section 5870(h). Each holder of a State Franchise and any incumbent cable operator shall provide interconnection of PEG channels, including any exclusive City use channel on reasonable terms and conditions and may not withhold the interconnection. If a holder of a State Franchise and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the City may require the incumbent cable operator to allow the holder of the State Franchise to interconnect its network with the incumbent cable operator's network at a technically feasible point on the State Franchise Holder's network as identified by the Holder or as otherwise permitted by applicable law. If no technically feasible point for interconnection is available, the holder of a State Franchise shall make an interconnection available to the channel originator and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by the State Franchise Holder requesting the interconnection unless otherwise agreed to by the State Franchise Holder and the incumbent cable operator. To the extent not inconsistent with California Public Utilities Code Section 5870(h), the City Manager or the City Manager's designee may waive or defer this requirement of interconnection in his or her sole discretion.

5.17.220 NOTICES.

- (a) Each State Franchise Holder or applicant for a state franchise shall file with the City Manager and with the City's communications specialist or other City

Manager designee a copy of all applications that the State Franchise Holder or applicant is required to file with the Public Utilities Commission with respect to state franchised video service in the City.

- (b) Unless otherwise specified in this Chapter, all notices or other documentation that a State Franchise Holder is required to provide to the City under this Chapter or the California Public Utilities Code shall be provided to the City Manager and to the City's communications specialist.

5.17.230 RIGHTS RESERVED.

The rights reserved to the City of Lodi under this Chapter are in addition to all other applicable rights of the City, whether granted or reserved by other provisions of the Lodi Municipal Code or as otherwise authorized by federal or state law, and no action, proceeding, or exercise of a right by the City of Lodi shall affect any other rights which may be held by the City of Lodi.

5.17.240 COMPLIANCE WITH LAW.

Nothing contained in this Chapter shall be construed to exempt a State Franchise Holder from compliance with all applicable ordinances, rules, or regulations of the City of Lodi now in effect or which may be adopted that are not inconsistent with this Chapter or California Public Utilities Code Section 5800 et seq.

SECTION 2. All other provisions of Lodi Municipal Code shall remain unchanged and continue in full force and effect.

SECTION 3. Any provisions of the Lodi Municipal Code, or appendices thereto, or any other ordinances of the City, to the extent that they are inconsistent with this ordinance, and no further, are hereby repealed.

SECTION 4. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 5. This ordinance shall go into effect and be in full force and operation from and after thirty days after its final passage and adoption.

SECTION 6. The City Clerk shall cause this Ordinance or a summary thereof to be published and, if appropriate posted, as provided by law. Any summary shall be published and a certified copy of the full text of this Ordinance posted in the Office of the City Clerk at least five (5) days prior to the City Council meeting at which this Ordinance is to be adopted. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall cause a summary to be published with the names of those City Council members voting for and against this Ordinance and shall post in the Office of the City Clerk a certified copy of the full text of this Ordinance along with the names of those City Council members voting for and against the Ordinance.

SECTION 7. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 8. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 9. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 10. The City Council intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal laws and this Ordinance shall be construed in light of that intent.

SECTION 11. This ordinance shall be published one time in the "Lodi News-Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2009

LARRY D. HANSEN
Mayor

Attest:

RANDI JOHL
City Clerk

=====

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. ____ was introduced at a regular meeting of the City Council of the City of Lodi held November 4, 2009, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. ____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney

5870. (a) The holder of a state franchise shall designate a sufficient amount of capacity on its network to allow the provision of the same number of public, educational, and governmental access (PEG) channels, as are activated and provided by the incumbent cable operator that has simultaneously activated and provided the greatest number of PEG channels within the local entity under the terms of any franchise in effect in the local entity as of January 1, 2007. For the purposes of this section, a PEG channel is deemed activated if it is being utilized for PEG programming within the municipality for at least eight hours per day. The holder shall have three months from the date the local entity requests the PEG channels to designate the capacity. However, the three-month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible, including any failure or delay of the incumbent cable operator to make adequate interconnection available, as required by this section.

(b) The PEG channels shall be for the exclusive use of the local entity or its designee to provide public, educational, and governmental channels. The PEG channels shall be used only for noncommercial purposes. However, advertising, underwriting, or sponsorship recognition may be carried on the channels for the purpose of funding PEG-related activities. The PEG channels shall all be carried on the basic service tier. To the extent feasible, the PEG channels shall not be separated numerically from other channels carried on the basic service tier and the channel numbers for the PEG channels shall be the same channel numbers used by the incumbent cable operator unless prohibited by federal law. After the initial designation of PEG channel numbers, the channel numbers shall not be changed without the agreement of the local entity unless the change is required by federal law. Each channel shall be capable of carrying a National Television System Committee (NTSC) television signal.

(c) (1) If less than three PEG channels are activated and provided within the local entity as of January 1, 2007, a local entity whose jurisdiction lies within the authorized service area of the holder of a state franchise may initially request the holder to designate not more than a total of three PEG channels.

(2) The holder shall have three months from the date of the request to designate the capacity. However, the three-month period shall be tolled by any period during which the designation or provision of PEG channel capacity is technically infeasible, including any failure or delay of the

incumbent cable operator to make adequate interconnection available, as required by this section.

(d) (1) The holder shall provide an additional PEG channel when the nonduplicated locally produced video programming televised on a given channel exceeds 56 hours per week as measured on a quarterly basis. The additional channel shall not be used for any purpose other than to continue programming additional government, education, or public access television.

(2) For the purposes of this section, "locally produced video programming" means programming produced or provided by any local resident, the local entity, or any local public or private agency that provides services to residents of the franchise area; or any transmission of a meeting or proceeding of any local, state, or federal governmental entity.

(e) Any PEG channel provided pursuant to this section that is not utilized by the local entity for at least eight hours per day as measured on a quarterly basis may no longer be made available to the local entity, and may be programmed at the holder's discretion. At the time that the local entity can certify to the holder a schedule for at least eight hours of daily programming, the holder of the state franchise shall restore the channel or channels for the use of the local entity.

(f) The content to be provided over the PEG channel capacity provided pursuant to this section shall be the responsibility of the local entity or its designee receiving the benefit of that capacity, and the holder of a state franchise bears only the responsibility for the transmission of that content, subject to technological restraints.

(g) (1) The local entity shall ensure that all transmissions, content, or programming to be transmitted by a holder of a state franchise are provided or submitted in a manner or form that is compatible with the holder's network, if the local entity produces or maintains the PEG programming in that manner or form. If the local entity does not produce or maintain PEG programming in that manner or form, then the local entity may submit or provide PEG programming in a manner or form that is standard in the industry. The holder shall be responsible for any changes in the form of the transmission necessary to make it compatible with the technology or protocol utilized by the holder to deliver services. If the holder is required to change the form of the transmission, the local entity shall permit the holder to do so in a manner that is most economical to the holder.

(2) The provision of those transmissions, content, or programming to the holder of a state franchise shall constitute authorization for the holder to carry those transmissions, content, or programming. The holder may carry the transmission, content, or programming outside of the local entity's jurisdiction if the holder agrees to pay the local entity or its designee any incremental licensing costs incurred by the local entity or its designee associated with that transmission. Local entities shall be prohibited from entering into licensing agreements that impose higher

proportional costs for transmission to subscribers outside the local entity's jurisdiction.

(3) The PEG signal shall be receivable by all subscribers, whether they receive digital or analog service, or a combination thereof, without the need for any equipment other than the equipment necessary to receive the lowest cost tier of service. The PEG access capacity provided shall be of similar quality and functionality to that offered by commercial channels on the lowest cost tier of service unless the signal is provided to the holder at a lower quality or with less functionality.

(h) Where technically feasible, the holder of a state franchise and an incumbent cable operator shall negotiate in good faith to interconnect their networks for the purpose of providing PEG programming. Interconnection may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. Holders of a state franchise and incumbent cable operators shall provide interconnection of the PEG channels on reasonable terms and conditions and may not withhold the interconnection. If a holder of a state franchise and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the local entity may require the incumbent cable operator to allow the holder to interconnect its network with the incumbent's network at a technically feasible point on the holder's network as identified by the holder. If no technically feasible point for interconnection is available, the holder of a state franchise shall make an interconnection available to the channel originator and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by the holder requesting the interconnection unless otherwise agreed to by the parties.

(i) A holder of a state franchise shall not be required to interconnect for, or otherwise to transmit, PEG content that is branded with the logo, name, or other identifying marks of another cable operator or video service provider. For purposes of this section, PEG content is not branded if it includes only production credits or other similar information displayed at the conclusion of a program. The local entity may require a cable operator or video service provider to remove its logo, name, or other identifying marks from PEG content that is to be made available through interconnection to another provider of PEG capacity.

(j) In addition to any provision for the PEG channels required under subdivisions (a) to (i), inclusive, the holder shall reserve, designate, and, upon request, activate a channel for carriage of state public affairs programming administered by the state.

(k) All obligations to provide and support PEG channel facilities and institutional networks and to provide cable services to community buildings contained in a locally issued franchise existing on December 31, 2006, shall continue until the local franchise expires, until the term of the franchise would have expired if it had not been terminated pursuant to subdivision (o) of Section 5840, or until January 1, 2009, whichever is later.

(l) After January 1, 2007, and until the expiration of the incumbent cable operator's franchise, if the incumbent cable operator has existing unsatisfied obligations under the franchise to remit to the local entity any cash payments for the ongoing costs of public, educational, and government access channel facilities or institutional networks, the local entity shall divide those cash payments among all cable or video providers as provided in this section. The fee shall be the holder's pro rata per subscriber share of the cash payment required to be paid by the incumbent cable operator to the local entity for the costs of PEG channel facilities. All video service providers and the incumbent cable operator shall be subject to the same requirements for recurring payments for the support of PEG channel facilities and institutional networks, whether expressed as a percentage of gross revenue or as an amount per subscriber, per month, or otherwise.

(m) In determining the fee on a pro rata per subscriber basis, all cable and video service providers shall report, for the period in question, to the local entity the total number of subscribers served within the local entity's jurisdiction, which shall be treated as confidential by the local entity and shall be used only to derive the per subscriber fee required by this section. The local entity shall then determine the payment due from each provider based on a per subscriber basis for the period by multiplying the unsatisfied cash payments for the ongoing capital costs of PEG channel facilities by a ratio of the reported subscribers of each provider to the total subscribers within the local entity as of the end of the period. The local entity shall notify the respective providers, in writing, of the resulting pro rata amount. After the notice, any fees required by this section shall be remitted to the applicable local entity quarterly, within 45 days after the end of the quarter for the preceding calendar quarter, and may only be used by the local entity as authorized under federal law.

(n) A local entity may, by ordinance, establish a fee to support PEG channel facilities consistent with federal law that would become effective subsequent to the expiration of any fee imposed pursuant to paragraph (2) of subdivision (l). If no such fee exists, the local entity may establish the fee at any time. The fee shall not exceed 1 percent of the holder's gross revenues, as defined in Section 5860. Notwithstanding this limitation, if, on December 31, 2006, a local entity is imposing a separate fee to support PEG channel facilities that is in excess of 1 percent, that entity may, by ordinance, establish a fee no greater than that separate fee, and in no event greater than 3 percent, to support PEG activities. The ordinance shall expire, and may be reauthorized, upon the expiration of the state franchise.

(o) The holder of a state franchise may recover the amount of any fee remitted to a local entity under this section by billing a recovery fee as a separate line item on the regular bill of each subscriber.

(p) A court of competent jurisdiction shall have exclusive jurisdiction to enforce any requirement under this section or resolve any dispute regarding the requirements set forth in this section, and no provider may

by barred from the provision of service or be required to terminate service as a result of that dispute or enforcement action.

**California Public Utilities Code
Section 5900**

5900.

(a) The holder of a state franchise shall comply with the provisions of Sections 53055, 53055.1, 53055.2, and 53088.2 of the Government Code, and any other customer service standards pertaining to the provision of video service established by federal law or regulation or adopted by subsequent enactment of the Legislature. All customer service and consumer protection standards under this section shall be interpreted and applied to accommodate newer or different technologies while meeting or exceeding the goals of the standards.

(b) The holder of a state franchise shall comply with provisions of Section 637.5 of the Penal Code and the privacy standards contained in Section 631 of the federal Cable Act (47 U.S.C. Sec. 551 et. seq.).

(c) The local entity shall enforce all of the customer service and protection standards of this section with respect to complaints received from residents within the local entity's jurisdiction, but it may not adopt or seek to enforce any additional or different customer service or other performance standards under Section 53055.3 or subdivision (q), (r), or (s) of Section 53088.2 of the Government Code, or any other authority or provision of law.

(d) The local entity shall, by ordinance or resolution, provide a schedule of penalties for any material breach by a holder of a state franchise of this section. No monetary penalties shall be assessed for a material breach if it is out of the reasonable control of the holder. Further, no monetary penalties may be imposed prior to January 1, 2007. Any schedule of monetary penalties adopted pursuant to this section shall in no event exceed five hundred dollars (\$500) for each day of each material breach, not to exceed one thousand five hundred dollars (\$1,500) for each occurrence of a material breach. However, if a material breach of this section has occurred, and the local entity has provided notice and a fine or penalty has been assessed, and if a subsequent material breach of the same nature occurs within 12 months, the penalties may be increased by the local entity to a maximum of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach. If a third or further material breach of the same nature occurs within those same 12 months, and the local entity has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of two thousand five hundred dollars (\$2,500) for each day of each material breach, not to exceed seven thousand five hundred dollars (\$7,500) for each occurrence of the material breach. With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar-for-dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed.

(e) The local entity shall give the video provider written notice of any alleged material breaches of the consumer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified material breach.

(f) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day within the jurisdiction of each local entity, following the expiration of the period specified in subdivision (e), that any material breach has not been remedied by the video provider, irrespective of the number of customers affected.

(g) Any penalty shall be provided to the local entity who shall submit one-half of the penalty to the Digital Divide Account established in Section 280.5.

(h) Any interested person may seek judicial review of a decision of the local entity in a court of appropriate jurisdiction. For this purpose, a court of law shall conduct a de novo review of any issues presented.

(i) This section shall not preclude a party affected by this section from utilizing any judicial remedy available to that party without regard to this section. Actions taken by a local legislative body, including a local franchising authority, pursuant to this section shall not be binding upon a court of law. For this purpose, a court of law shall conduct de novo review of any issues presented.

(j) For purposes of this section, "material breach" means any substantial and repeated failure of a video service provider to comply with service quality and other standards specified in subdivision (a).

(k) The Division of Ratepayer Advocates shall have authority to advocate on behalf of video customers regarding renewal of a state-issued franchise and enforcement of Sections 5890, 5900, and 5950. For this purpose, the division shall have access to any information in the possession of the commission subject to all restrictions on disclosure of that information that are applicable to the commission.

California Government Code Sections

53055

Each cable television operator or video provider in the state shall establish customer service standards. These customer service standards shall include, but not be limited to, standards regarding the following:

- (a) Installation, disconnection, service and repair obligations, employee identification and service call response time and scheduling.
- (b) Customer telephone and office hours; procedures for billing, charges, refunds, and credits.
- (c) Procedures for termination of service.
- (d) Notice of the deletion of a programming service, the changing of channel assignments, or an increase in rates.
- (e) Complaint procedures and procedures for bill dispute resolution.

53055.1.

(a) Each cable television operator or video provider shall annually distribute to employees, to each customer, and to the city, county, or city and county in which the cable television operator or video provider furnishes service to customers, a notice describing these customer service standards. New customers shall also be provided with this notice when service is initiated.

(b) The notice given to new customers pursuant to this section shall include, in addition to all of the information described in subdivisions (a) to (e), inclusive, of Section 53055, all of the following:

(1) A listing of the services offered by the cable television operator or video provider which clearly describes all levels of service, and including the rates for each level of service, provided that, if the information concerning levels of service and rates is otherwise distributed to new customers upon installation by the cable television operator or video provider, the information need not be included in the notice to new customers required by this section.

(2) The telephone number or numbers through which customers may subscribe to, change, or terminate service, request customer service, or seek general or billing information.

(3) A description of the rights and remedies which the cable television operator or video provider may make available to its customers if the cable television operator or video provider does not materially meet its customer service standards.

53055.2.

After the customer service standards established pursuant to Section 53055 have been in effect for one year, each cable television operator and video provider shall report annually on the performance of that cable television operator or video provider with regard to meeting its customer service standards. This report shall be included in the annual notice required by Section 53055.1.

53055.3.

No provision of this article shall be construed to preempt the prerogative of a city, county, or city and county to enforce customer protection standards that are contained in a franchise or license granted to a cable television operator or video provider pursuant to Section 53066.1 or that are otherwise authorized by law for other cable television operators or video providers.

53088.2.

(a) Every video provider shall render reasonably efficient service, make repairs promptly, and interrupt service only as necessary.

(j) All video provider personnel contacting subscribers or potential subscribers outside the office of the provider shall be clearly identified as associated with the video provider.

(c) At the time of installation, and annually thereafter, all video providers shall provide to all customers a written notice of the programming offered, the prices for that programming, the provider's installation and customer service policies, and the name, address, and telephone number of the local franchising authority.

(d) All video providers shall have knowledgeable, qualified company representatives available to respond to customer telephone inquiries Monday to Friday, inclusive, excluding holidays, during normal business hours.

e) All video providers shall provide to customers a toll-free or local telephone number for installation, and service, and complaint calls. These calls shall be answered promptly by the video providers. The city, county, or city and county may establish standards for what constitutes promptness.

(f) All video providers shall render bills that are accurate and understandable.

(g) All video providers shall respond to a complete outage in a customer's service promptly. The response shall occur within 24 hours of the reporting of the outage to the provider, except in those situations beyond the reasonable control of the video provider. A video provider shall be deemed to respond to a complete outage when a company representative arrives at the outage location within 24 hours and begins to resolve the problem.

(h) All video providers shall provide a minimum of 30 days' written notice before increasing rates or deleting channels. All video providers shall make every reasonable effort to submit the notice to the city, county, or city and county in advance of the distribution to customers. The 30-day notice is waived if the increases in rates or deletion of channels were outside the control of the video provider. In those cases the video provider shall make reasonable efforts to provide customers with as much notice as possible.

(i) Every video provider shall allow every residential customer who pays his or her bill directly to the video provider at least 15 days from the date the bill for services is mailed to the customer, to pay the listed charges unless otherwise agreed to pursuant to a residential rental agreement establishing tenancy. Customer payments shall be posted promptly. No video provider may terminate residential service for nonpayment of a delinquent account unless the video provider furnishes notice of the delinquency and impending termination at least 15 days prior to the proposed termination. The notice shall be mailed, postage prepaid, to the customer to whom the service is billed. Notice shall not be mailed until the 16th day after the date the bill for services was mailed to the customer. The notice of delinquency and impending termination may be part of a billing statement. No video provider may assess a late fee any earlier than the 22nd day after the bill for service has been mailed.

(j) Every notice of termination of service pursuant to subdivision (i) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment is required in order to avoid termination of service.

(4) The telephone number of a representative of the video provider who can provide additional information and handle complaints or initiate an investigation concerning the service and charges in question.

Service may only be terminated on days in which the customer can reach a representative of the video provider either in person or by telephone.

(k) Any service terminated without good cause shall be restored without charge for the service restoration. Good cause includes, but is not limited to, failure to pay, payment by check for which there are insufficient funds, theft of service, abuse of equipment or system personnel, or other similar subscriber actions.

(l) A video provider shall cease charging a customer for services within seven business days of receiving a request to terminate service. If the customer requests that service be terminated and provides seven or more business day's notice before the date for termination of service, the video provider shall cease charging the customer for additional services as of midnight of the last day of service. Nothing in this subdivision shall prohibit a video provider from billing for charges incurred by the customer prior to the date for termination of service.

(m) All video providers shall issue requested refund checks promptly, but no later than 45 days following the resolution of any dispute, and following the return of the equipment supplied by the video provider, if service is terminated.

(n) All video providers shall issue security or customer deposit refund checks promptly, but no later than 45 days following the termination of service, less any deductions permitted by law.

(o) Video providers shall not disclose the name and address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video providers or their affiliates, unless the video providers have provided to the subscriber a notice, separate or included in any other customer notice, that clearly and conspicuously describes the subscriber's ability to prohibit the disclosure. Video providers shall provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name and address.

(p) Disputes concerning the provisions of this article shall be resolved by the city, county, or city and county in which the customer resides. For video providers under Section 53066, the franchising authority shall resolve disputes. All other video providers shall register with the city in which they provide service or, where the customers reside in an unincorporated area, in the county in which they provide service. The registration shall include the name of the company, its address, its officers, telephone numbers, and customer service and complaint procedures. Counties and cities may charge these other video providers operating in the state a fee to cover the reasonable cost of administering this division.

(q) Nothing in this division limits any power of a city, county, or city and county or video provider to adopt and enforce service standards and consumer protection standards that exceed those established in this division.

(r) The legislative body of the city, county, or city and county, may, by ordinance, provide a schedule of penalties for the material breach by a video provider of subdivisions (a) to (p), inclusive. No monetary penalties shall be assessed for a material breach if the breach is out of the reasonable control of the video provider. Further, no monetary penalties may be imposed prior to the effective date of this section. Any schedule of monetary penalties adopted pursuant to this section shall in no event exceed two hundred dollars (\$200) for each day of each material breach, not to exceed six hundred dollars (\$600) for each occurrence of material breach. However, if a material breach of any of subdivisions (a) to (p), inclusive, has occurred and the city, county, or city and county has provided notice and a fine or penalty has been assessed, in a subsequent material breach of the same nature occurring within 12 months, the penalties may be increased by the city, county, or city and county to a maximum of four hundred dollars (\$400) for each day of each material breach, not to exceed one thousand two hundred dollars (\$1,200) for each occurrence of the material breach. If a third or further material breach of the same nature occurs within those same 12 months, and the city, county, or city and county has provided notice and a fine or penalty has been assessed, the penalties may be increased to a maximum of one thousand dollars (\$1,000) for each day of each material breach, not to exceed three thousand dollars (\$3,000) for each occurrence of the material breach. With respect to video providers subject to a franchise or license, any monetary penalties assessed under this section shall be reduced dollar for dollar to the extent any liquidated damage or penalty provision of a current cable television ordinance, franchise contract, or license agreement imposes a monetary obligation upon a video provider for the same customer service failures, and no other monetary damages may be assessed. However, this section shall in no way affect the right of franchising authorities concerning assessment or renewal of a cable television franchise under the provisions of the Cable Communications Policy Act of 1984 (47 U.S.C. Sec. 521 et seq.).

(s) If the legislative body of a city, county, or city and county adopts a schedule of monetary penalties pursuant to subdivision (q), the following procedures shall be followed:

(1) The city, county, or city and county shall give the video provider written notice of any alleged material breaches of the consumer service standards of this division and allow the video provider at least 30 days from receipt of the notice to remedy the specified breach.

(2) A material breach for the purposes of assessing penalties shall be deemed to have occurred for each day, following the expiration of the period specified in paragraph (1), that any material breach has not been remedied by the video provider, irrespective of the number of customers affected.

(t) Notwithstanding subdivision (o), or any other provision of law, this section shall not preclude a party affected by this section from utilizing any judicial remedy available to that party without regard to this section. Actions taken by a local legislative body, including a franchising authority, pursuant to this section shall not be binding upon a court of law. For this purpose, a court of law may conduct de novo review of any issues presented.

California Penal Code

637.5. (a) No person who owns, controls, operates, or manages a satellite or cable television corporation, or who leases channels on a satellite or cable system shall:

(1) Use any electronic device to record, transmit, or observe any events or listen to, record, or monitor any conversations that take place inside a subscriber's residence, workplace, or place of business, without obtaining the express written consent of the subscriber. A satellite or cable television corporation may conduct electronic sweeps of subscriber households to monitor for signal quality.

(2) Provide any person with any individually identifiable information regarding any of its subscribers, including, but not limited to, the subscriber's television viewing habits, shopping choices, interests, opinions, energy uses, medical information, banking data or information, or any other personal or private information, without the subscriber's express written consent.

(b) Individual subscriber viewing responses or other individually identifiable information derived from subscribers may be retained and used by a satellite or cable television corporation only to the extent reasonably necessary for billing purposes and internal business practices, and to monitor for unauthorized reception of services. A satellite or cable television corporation may compile, maintain, and distribute a list containing the names and addresses of its subscribers if the list contains no other individually identifiable information and if subscribers are afforded the right to elect not to be included on the list. However, a satellite or cable television corporation shall maintain adequate safeguards to ensure the physical security and confidentiality of the subscriber information.

(c) A satellite or cable television corporation shall not make individual subscriber information available to government agencies in the absence of legal compulsion, including, but not limited to, a court order or subpoena. If requests for information are made, a satellite or cable television corporation shall promptly notify the subscriber of the nature of the request and what government agency has requested the information prior to responding unless otherwise prohibited from doing so by law.

Nothing in this section shall be construed to prevent local franchising authorities from obtaining information necessary to monitor franchise compliance pursuant to franchise or license agreements. This information shall be provided so as to omit individually identifiable subscriber information whenever possible. Information obtained by local franchising authorities shall be used solely for monitoring franchise compliance and shall not be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(d) Any individually identifiable subscriber information gathered by a satellite or cable television corporation shall be made available for subscriber examination within 30 days of receiving a request by a subscriber to examine the information on the premises of the corporation. Upon a reasonable showing by the subscriber that the information is inaccurate, a satellite or cable television corporation shall correct the information.

(e) Upon a subscriber's application for satellite or cable television service, including, but not limited to, interactive service, a satellite or cable television corporation shall provide the applicant with a separate notice in an appropriate form explaining the subscriber's right to privacy protection afforded by this section.

(f) As used in this section:

(1) "Cable television corporation" shall have the same meaning as that term is given by Section 216.4 of the Public Utilities Code.

(2) "Individually identifiable information" means any information identifying an individual or his or her use of any service provided by a satellite or cable system other than the mere fact that the individual is a satellite or cable television subscriber. "Individually identifiable information" shall not include anonymous, aggregate, or any other information that does not identify an individual subscriber of a video provider service.

(3) "Person" includes an individual, business association, partnership, corporation, limited liability company, or other legal entity, and an individual acting or purporting to act for or on behalf of any government, or subdivision thereof, whether federal, state, or local.

(4) "Interactive service" means any service offered by a satellite or cable television corporation involving the collection, reception, aggregation, storage, or use of electronic information transmitted from a subscriber to any other receiving point under the control of the satellite or cable television corporation, or vice versa.

(g) Nothing in this section shall be construed to limit the ability of a satellite or cable television corporation to market satellite or cable television or ancillary services to its subscribers.

(h) Any person receiving subscriber information from a satellite or cable television corporation shall be subject to the provisions of this section.

(i) Any aggrieved person may commence a civil action for damages for invasion of privacy against any satellite or cable television corporation, service provider, or person that leases a channel or channels on a satellite or cable television system that violates the provisions of this section.

(j) Any person who violates the provisions of this section is guilty of a misdemeanor punishable by a fine not exceeding three thousand dollars (\$3,000), or by imprisonment in the county jail not exceeding one year, or by both that fine and imprisonment.

(k) The penalties and remedies provided by subdivisions (i) and (j) are cumulative, and shall not be construed as restricting any penalty or remedy, provisional or otherwise, provided by law for the benefit of any person, and no judgment under this section shall preclude any person from obtaining additional relief based upon the same facts.

(l) The provisions of this section are intended to set forth minimum state standards for protecting the privacy of subscribers to cable television services and are not intended to preempt more restrictive local standards.

Code of Federal Regulations (CFR)

47 CFR §76.309 Customer service obligations

(a) A cable franchise authority may enforce the customer service standards set forth in section (c) of this rule against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

(1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in section (c) of this rule;

(2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in section (c) of this rule and are contained in current franchise agreements;

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by, the standards set forth in section (c) of this rule.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability.

(i) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(A) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(B) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.

(iii) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.

(v) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

(2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(ii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(iv) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(v) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(3) Communications between cable operators and cable subscribers.

(i) Refunds. Refund checks will be issued promptly, but no later than either-

(A) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(B) The return of the equipment supplied by the cable operator if service is terminated.

(ii) Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(4) Definitions.

(i) Normal Business Hours. The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

(ii) Normal Operating Conditions. The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(iii) Service Interruption. The term "service interruption" means the loss of picture or sound on one or more cable channels.

Note to §76.309: Section 76.1602 contains notification requirements for cable operators with regard to operator obligations to subscribers and general information to be provided to customers regarding service. Section 76.1603 contains subscriber notification requirements governing rate and service changes. Section 76.1619 contains notification requirements for cable operators with regard to subscriber bill information and operator response procedures pertaining to bill disputes.

47 CFR §76.1602 Customer service -- general information.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Effective July 1, 1993, the cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions of programming carried on the system; and

(6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(c) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the cable system operator, including the address of the responsible officer of the local franchising authority.

47 CFR §76.1603 Customer service -- rate and service changes.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by §76.1602.

(c) In addition to the requirement of paragraph (b) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, cable systems

shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, change in external costs or the addition/deletion of channels). When the change involves the addition or deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

(d) A cable operator shall provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. The notice should include the name and address of the local franchising authority.

(e) To the extent the operator is required to provide notice of service and rate changes to subscribers, the operator may provide such notice using any reasonable written means at its sole discretion.

(f) Notwithstanding any other provision of part 76 of this chapter, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

Note 1 to §76.1603: Section 624(h) of the Communications Act, 47 U.S.C. 544(h), contains additional notification requirements which a franchising authority may enforce.

Note 2 to §76.1603: Section 624(d)(3) of the Communications Act, 47 U.S.C. 544(d)(3), contains additional notification provisions pertaining to cable operators who offer a premium channel without charge to cable subscribers who do not subscribe to such premium channel.

Note 3 to §76.1603: Section 631 of the Communications Act, 47 U.S.C. 551, contains additional notification requirements pertaining to the protection of subscriber privacy.

47 CFR 76.1619 Information on subscriber bills.

(a) Effective July 1, 1993, bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(c) A cable franchise authority may enforce the customer service standards set forth in this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

United States Code ("USC")

47 USC §544(d) Cable service unprotected by Constitution

(1) Nothing in this subchapter shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the Constitution of the United States.

(2)(A) In order to restrict the viewing of programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber.

(B) Subparagraph (A) shall take effect 180 days after the effective date of this subchapter.

(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge--

(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge;

(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge;

(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked; and

(iv) block the channel carrying the premium channel upon the request of a subscriber.

(B) For the purpose of this section, the term "premium channel" shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association of America as X, NC-17, or R.

47 USC §544(h) Programming changes

A franchising authority may require a cable operator to do any one or more of the following:

(1) Provide 30 days' advance written notice of any change in channel assignment or in the video programming service provided over any such channel.

(2) Inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority.

47 USC §551 Protection of subscriber privacy

(a) Notice to subscriber regarding personally identifiable information; definitions

(1) At the time of entering into an agreement to provide any cable service or other service to a subscriber and at least once a year thereafter, a cable operator shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

(C) the period during which such information will be maintained by the cable operator;

(D) the times and place at which the subscriber may have access to such information in accordance with subsection (d) of this section; and

(E) the limitations provided by this section with respect to the collection and disclosure of information by a cable operator and the right of the subscriber under subsections (f) and (h) of this section to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this section, such notice shall be provided within 180 days of such date and at least once a year thereafter.

(2) For purposes of this section, other than subsection (h) of this section—

(A) the term "personally identifiable information" does not include any record of aggregate data which does not identify particular persons;

(B) the term "other service" includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

(C) the term "cable operator" includes, in addition to persons within the definition of cable operator in section 522 of this title, any person who

(i) is owned or controlled by, or under common ownership or control with, a cable operator, and

(ii) provides any wire or radio communications service.

(b) Collection of personally identifiable information using cable system

(1) Except as provided in paragraph (2), a cable operator shall not use the cable system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

(2) A cable operator may use the cable system to collect such information in order to—

(A) obtain information necessary to render a cable service or other service provided by the cable operator to the subscriber; or

(B) detect unauthorized reception of cable communications.

(c) Disclosure of personally identifiable information

(1) Except as provided in paragraph (2), a cable operator shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or cable operator.

(2) A cable operator may disclose such information if the disclosure is—

(A) necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the subscriber;

(B) subject to subsection (h) of this section, made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;

(C) a disclosure of the names and addresses of subscribers to any cable service or other service, if—

(i) the cable operator has provided the subscriber the opportunity to prohibit or limit such disclosure, and

(ii) the disclosure does not reveal, directly or indirectly, the—

(I) extent of any viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or

(II) the nature of any transaction made by the subscriber over the cable system of the cable operator; or

(D) to a government entity as authorized under chapters 119, 121, or 206 of title 18, except that such disclosure shall not include records revealing cable subscriber selection of video programming from a cable operator.

(d) Subscriber access to information

A cable subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator. A cable subscriber shall be provided reasonable opportunity to correct any error in such information.

(e) Destruction of information

A cable operator shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (d) of this section or pursuant to a court order.

(f) Civil action in United States district court; damages; attorney's fees and costs; nonexclusive nature of remedy

(1) Any person aggrieved by any act of a cable operator in violation of this section may bring a civil action in a United States district court.

(2) The court may award—

(A) actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

(B) punitive damages; and

(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

(3) The remedy provided by this section shall be in addition to any other lawful remedy available to a cable subscriber.

(g) Regulation by States or franchising authorities

Nothing in this subchapter shall be construed to prohibit any State or any franchising authority from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

(h) Disclosure of information to governmental entity pursuant to court order

Except as provided in subsection (c)(2)(D) of this section, a governmental entity may obtain personally identifiable information concerning a cable subscriber pursuant to a court order only if, in the court proceeding relevant to such court order —

(1) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

(2) the subject of the information is afforded the opportunity to appear and contest such entity's claim.

**California Civil Code
Section 1722**

1722.

(a)

(1) Whenever a contract is entered into between a consumer and a retailer with 25 or more employees relating to the sale of merchandise which is to be delivered by the retailer or the retailer's agent to the consumer at a later date, and the parties have agreed that the presence of the consumer is required at the time of delivery, the retailer and the consumer shall agree, either at the time of the sale or at a later date prior to the delivery date, on a four-hour time period within which any delivery shall be made. Whenever a contract is entered into between a consumer and a retailer with 25 or more employees for service or repair of merchandise, whether or not the merchandise was sold by the retailer to the consumer, and the parties have agreed that the presence of the consumer is required at the time of service or repair, upon receipt of a request for service or repair under the contract, the retailer and the consumer shall agree, prior to the date of service or repair, on a four-hour period within which the service or repair shall be commenced. Once a delivery, service, or repair time is established, the retailer or the retailer's agent shall deliver the merchandise to the consumer, or commence service or repair of the merchandise, within that four-hour period.

(2) If the merchandise is not delivered, or service or repair are not commenced, within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the retailer, the consumer may bring an action in small claims court against the retailer for lost wages, expenses actually incurred, or other actual damages not exceeding a total of six hundred dollars (\$600).

(3) No action shall be considered valid if the consumer was not present at the time, within the specified period, when the retailer or the retailer's agent attempted to make the delivery, service, or repairs or made a diligent attempt to notify the consumer by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the retailer or the retailer's agent shall leave a telephone number for a return telephone call by the consumer to the retailer or its agent, to enable the consumer to arrange a new two-hour period for delivery, service, or repair with the retailer or the retailer's agent.

(4) In any small claims action, logs and other business records maintained by the retailer or the retailer's agent in the ordinary course of business shall be prima facie evidence of the time period specified for the delivery, service, or repairs and of the time when the merchandise was delivered, or of a diligent attempt by the retailer or the retailer's agent to notify the consumer of delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the consumer of the delay caused by unforeseen or unavoidable occurrences beyond the control of the retailer or the retailer's agent, or the retailer or the retailer's agent was unable to notify the consumer of the delay because of the consumer's absence or unavailability during the four-hour period, and, in either instance, the retailer or the retailer's agent makes the delivery, service, or repairs within two hours of a newly agreed upon time or, if the consumer unreasonably declines to arrange a new time for the delivery, service, or repairs.

(b)

(1) Cable television companies shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair. Whenever a subscriber contracts with a cable television company for a service connection or repair which is to take place at a later date, and the parties have agreed that the presence of

the subscriber is required, the cable company and the subscriber shall agree, prior to the date of service connection or repair, on the time for the commencement of the four-hour period for the service connection or repair.

(2) If the service connection or repair is not commenced within the specified four-hour period, except for delays caused by unforeseen or unavoidable occurrences beyond the control of the company, the subscriber may bring an action in small claims court against the company for lost wages, expenses actually incurred or other actual damages not exceeding a total of six hundred dollars (\$600).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the company attempted to make the service connection or repair or made a diligent attempt to notify the subscriber by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the cable television company or its agent shall leave a telephone number for a return telephone call by the subscriber to the company or its agent, to enable the consumer to arrange a new two-hour period for service connection or repair.

(4) In any small claims action, logs and other business records maintained by the company or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and the time that the company or its agents attempted to make the service connection or repair, or of a diligent attempt by the company to notify the subscriber in person or by telephone of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences beyond the control of the company or its agents, or the company or its agents were unable to notify the subscriber because of the subscriber's absence or unavailability during the four-hour period, and, in either instance, the cable television company commenced service or repairs within a newly agreed upon two-hour period.

(6) No action shall be considered valid against a cable television company pursuant to this section when the franchise or any local ordinance provides the subscriber with a remedy for a delay in commencement of a service connection or repair and the subscriber has elected to pursue that remedy. If a subscriber elects to pursue his or her remedies against a cable television company under this section, the franchising or state or local licensing authority shall be barred from imposing any fine, penalty, or other sanction against the company, arising out of the same incident.

(c)

(1) Utilities shall inform their subscribers of their right to service connection or repair within a four-hour period, if the presence of the subscriber is required, by offering the four-hour period at the time the subscriber calls for service connection or repair. Whenever a subscriber contracts with the utility for a service connection or repair, and the parties have agreed that the presence of the subscriber is required, and the subscriber has requested a four-hour appointment, the utility and the subscriber shall agree, prior to the date of service connection or repair, on the time for the commencement of the four-hour period for the service connection or repair.

(2) If the service connection or repair is not commenced within the four-hour period provided under paragraph (1) or another period otherwise agreed to by the utility and the subscriber, except for delays caused by unforeseen or unavoidable circumstances beyond the control of the utility, the subscriber may bring an action in small claims court against the utility for lost wages, expenses actually incurred, or other actual damages not exceeding a total of six hundred dollars (\$600).

(3) No action shall be considered valid if the subscriber was not present at the time, within the specified period, that the utility attempted to make the service connection or repair or made a diligent attempt to notify the subscriber by telephone or in person of its inability to do so because of unforeseen or unavoidable occurrences beyond its control. If notification is by telephone, the utility or its agent shall leave a telephone number for a return telephone call by the subscriber to the utility or its agent, to enable the consumer to arrange a new two-hour period for service connection or repair.

(4) In any small claims action, logs and other business records maintained by the utility or its agents in the ordinary course of business shall be prima facie evidence of the time period specified for the commencement of the service connection or repair and of the time that the utility attempted to make the service connection or repair, or of a diligent attempt by a utility to notify the subscriber in person or by telephone of a delay caused by unforeseen or unavoidable occurrences.

(5) It shall be a defense to the action if a diligent attempt was made by the utility to notify the subscriber of a delay caused by unforeseen or unavoidable occurrences beyond the control of the utility, and the utility commenced service within a newly agreed upon two-hour period.

(d) Any provision of a delivery, service, or repair contract in which the consumer or subscriber agrees to modify or waive any of the rights afforded by this section is void as contrary to public policy.



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Report on Possible Transit Fare Increases and Route Modifications and Consider Setting Public Hearing for a Date Determined by City Council

MEETING DATE: November 4, 2009

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Receive a report on possible transit fare increases and route modifications and consider setting a public hearing for a date to be determined by City Council.

BACKGROUND INFORMATION: At the Public Hearing on October 21, 2009, City Council approved reducing service hours for the City's transit operations in response to reduced State funding. The changes became effective November 2, 2009. City Council also directed staff to explore:
1) extending the service hours on Saturday and Sunday and 2) increasing fares.

Staff recommends that Council approve the Extended Service Option and implement a proposed increase in transit fares based upon the information provided below. Staff recommends that a public hearing to consider the increase in transit fares be set for December 19, 2009, or earlier if possible.

Extending Service Option

Staff worked with the City's transit contractor, MV Transportation, to determine the additional cost to extend service hours on Saturday and Sunday. The extended service hours on the Fixed Route and Dial-A-Ride/VineLine service are presented in Table 1 below.

Table 1

<u>Service</u>	<u>Day</u>	<u>Approved by Council</u>	<u>Extended Service Option</u>
Fixed Route (4 routes)	Saturday	9:15 a.m. – 3:08 p.m.	7:45 a.m. – 3:09 p.m.
Fixed Route (4 routes)	Sunday	No Service	9:00 a.m. – 12:30 p.m.
Dial-A-Ride/VineLine	Saturday	9:15 a.m. – 3:08 p.m.	7:45 a.m. – 3:09 p.m.
Dial-A-Ride/VineLine	Sunday	No Service	9:00 a.m. – 12:30 p.m.

Based on MV Transportation's funding model, the additional cost for extending the Saturday service hours and adding Sunday service is approximately \$53,000. Approximately 153 daily passengers (43 DAR/VL and 110 Fixed Route) of the total Sunday ridership (241 passengers = 70 DAR/VL and 171 Fixed Route passengers) will be serviced during the extended hours shown above.

APPROVED: _____
Blair King, City Manager

Increase Transit Fares

In January 2005, after the October 20, 2004 City Council public hearing, the Fixed Route fares were increased by \$0.50 for the general public and \$0.25 for Senior/Disabled/Medicare passengers, and the Dial-A-Ride fares were increased by \$3.00 for general public and \$0.50 for Senior/Disabled/Medicare passengers. It should be noted that there are very few general public Dial-A-Ride passengers. Following the fare increase, the Fixed Route and Dial-A-Ride ridership dropped approximately 17.2% and 7.7%, respectively.

Due to federal regulations and City Council meeting schedules, the proposed new fares could not begin before January 2, 2010 and, therefore, the new fares would apply for only half of the current fiscal year. The federal process for implementing fare increases requires an informational public meeting followed by a public hearing. If a special meeting was scheduled for the public hearing in latter November, the proposed new fares could begin December 1, 2009, and the higher fares could be collected for seven months instead of six months.

Staff recommends proposed fare increases as presented in Table 2. Assuming the new fares would apply to half of the current fiscal year and the ridership reductions noted above, the additional revenue resulting from the fare increase would be approximately \$32,100. If the fare increase were implemented December 1, 2009, the additional revenue would be approximately \$37,450.

Table 2

	Current Fare	Proposed Fare
Dial-A-Ride		
General Public	\$5.00	\$7.00
Senior/Disabled/Medicare	\$1.50	\$2.00
10-Ride General Public	\$50.00	\$66.50
10-Ride Senior/Disabled/Medicare	\$12.00	\$20.00
VineLine		
ADA-Certified	\$1.50	\$2.00
Fixed Route		
General Public (6-59)	\$1.00	\$1.25
Senior/Disabled/Medicare	\$0.50	\$0.65
General Public Monthly Pass	\$10.00	\$12.50
Senior/Disabled/Medicare Monthly Pass	\$5.00	\$6.25
Outside City Limits		
Dial-A-Ride	\$1.00	No change

Presented in Exhibit A is a comparison of transit fares for selected cities in the region. The proposed transit fares are, in staff's opinion, favorably comparable to these other cities.

In summary, the estimated cost of the Extended Service Option is \$53,000 and the additional revenue provided by the fare increase is \$32,100 (or \$37,450). Staff believes the system can be operated within budget under these conditions, given that budgets are estimates and minor cost control measure can be implemented through the year, if necessary.

Staff recommends that Council approve the Extended Service Option and implement a proposed increase in Transit Fares based upon the information provided. Staff recommends that a public hearing

to consider the increase in Transit Fares for December 19, 2009 or earlier if possible. By previous Council action, the City Manager is authorized to implement a required contract amendment with MV Transportation.

FISCAL IMPACT: Increase transit operations costs.

FUNDING AVAILABLE: Pending future action to increase transit fares.

Jordan Ayers
Deputy City Manager/Internal Services Director

F. Wally Sandelin
Public Works Director

Prepared by Paula J. Fernandez, Transportation Manager/Senior Traffic Engineer

FWS/PJF/pmf

Attachment

Comparison of Transit Fares

	Fixed Route				Dial-A-Ride/ADA Paratransit			
	General Public Fare	Sr/Dis/Med Fare	Student	Children	General Public (Adult/Children)	Sr/Dis/Med	Student	ADA Paratransit Only
Lodi	\$1.25	\$0.65	\$1.25	5 and under free per 2 fare paying adults	\$7.00	\$2.00	\$7.00	\$2.00
Davis Unitrans	\$1.00	Unlimited Access with free pass, upon approval (Senior= 60+)	Unlimited Access with registration card; without card fare is \$1.00	N/A	none			
Davis Community Transit	none				N/A	N/A	N/A	\$2.00 for customers who qualify under ADA
Elk Grove e-tran/e-van	\$2.25	\$1.10	\$1.10	5 and under free	N/A	\$3.50 local, \$7.50 regional (Srs= 75+)	N/A	\$3.50 local, \$7.50 regional (Srs= 75+)
Escalon	\$1.50	\$0.75	\$1.25	N/A	N/A	N/A	N/A	\$3.00 (provided by SJRTD)
Fairfield	\$1.00	\$0.50	N/A		N/A	N/A	N/A	
Galt (DAR) Livermore (Livermore/Amador Valley Transit Authority)	none				\$2.50 / 4 and under free with fare paying adult	\$1.75	\$1.75	N/A
Manteca	\$2.00	\$1.00	N/A	6 and under free	N/A	\$3.50	N/A	N/A
Ripon (service provided by SJRTD Hopper Route 91)	\$1.00	\$0.50	\$0.75	5 and under free	N/A	\$2.00	N/A	N/A
Ripon (service provided by SJRTD Hopper Route 91)	\$1.50	\$0.75	\$1.25	4 and under free	N/A	\$1.00 (Ripon seniors and/or disabled, one Thur/ month, just to Modesto, within 25 miles of town)	N/A	N/A
Roseville	\$1.50	\$0.75	N/A	4 and under free	\$3.75 4 and under free	\$2.25	N/A	\$2.25
Stockton (SJRTD)	\$1.50	\$0.75	\$1.25	5 and under free	N/A	N/A	N/A	\$3.00
Tracy	\$1.00	\$0.50	\$0.75	6 and under free	\$1.25 (only for travel to and from the Unincorporated areas)	\$1.25	N/A	\$1.25



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Designation of Two Council Members to Participate in the Selection Process for a New Electric Utility Director.

MEETING DATE: November 4, 2009

PREPARED BY: City Manager

RECOMMENDED ACTION: Designation of two Council Members to participate in the selection process for a new Electric Utility Director.

BACKGROUND INFORMATION: As Council is aware, the City is in the process of recruiting a new Electric Utility Director to fill a recent vacancy. In doing so, the City Manager respectfully requests the City Council designate two Council Members to participate in the selection process by serving on the interview board for this important position and serving, if necessary, as a liaison during the process. The date for interviews is undetermined at this time, but one should plan on spending an entire day.

An agreement for recruitment services has been entered into with Avery & Associates of Los Gatos, California. It is estimated that the recruitment and selection period will take approximately four months.

FISCAL IMPACT: Not applicable to this action. The fee for Avery & Associates services is not to exceed \$14,400 and expenses will not exceed \$4,500.

Blair King, City Manager

BK/sl

APPROVED: _____
Blair King, City Manager



TM

CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Ordinance No. 1825 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 15.68, 'San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees,' by Repealing and Reenacting Section 15.68.020(B), "Annual Adjustment"

MEETING DATE: November 4, 2009

PREPARED BY: City Clerk

RECOMMENDED ACTION: Motion waiving reading in full and (following reading by title) adopting the attached Ordinance No. 1825.

BACKGROUND INFORMATION: Ordinance No. 1825 Entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Chapter 15.68, 'San Joaquin County Multi-Species Habitat Conservation and Open Space Plan Development Fees,' by Repealing and Reenacting Section 15.68.020(B), "Annual Adjustment"" was introduced at the regular City Council meeting of October 21, 2009.

ADOPTION: With the exception of urgency ordinances, no ordinance may be passed within five days of its introduction. Two readings are therefore required – one to introduce and a second to adopt the ordinance. Ordinances may only be passed at a regular meeting or at an adjourned regular meeting; except for urgency ordinances, ordinances may not be passed at a special meeting. Id. All ordinances must be read in full either at the time of introduction or at the time of passage, unless a regular motion waiving further reading is adopted by a majority of all council persons present. **Cal. Gov't Code § 36934.**

Ordinances take effect 30 days after their final passage. **Cal. Gov't Code § 36937.**
This ordinance has been approved as to form by the City Attorney.

FISCAL IMPACT: None.

FUNDING AVAILABLE: None required.

Randi Johl
City Clerk

RJ/jmr
Attachment

APPROVED: _____
Blair King, City Manager

ORDINANCE NO. 1825

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
AMENDING LODI MUNICIPAL CODE CHAPTER 15.68, "SAN
JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION
AND OPEN SPACE PLAN DEVELOPMENT FEES," BY
REPEALING AND REENACTING SECTION 15.68.020(B),
"ANNUAL ADJUSTMENT"

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. Chapter 15.68, "San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) Development Fees," Section 15.68.020(B), "Annual Adjustment," is hereby repealed and reenacted to read as follows:

- B. Annual Adjustment. The Fee established pursuant to a resolution shall be adjusted each year by an amount consistent with the California Construction Cost Index (CCCI) as published by the Engineering News Record and/or in conformance with Section 7.5.2.2. of the SJMSCP, and as approved by SJCOG, Inc.

The proposed fee adjustments shall be adopted by the Lodi City Council in order to be effective by January 1st of each year.

SECTION 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 3. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 4. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall be in force and take effect thirty days from and after its passage and approval.

Approved this 4th day of November, 2009

LARRY D. HANSEN
Mayor

Attest:

RANDI JOHL
City Clerk

State of California
County of San Joaquin, ss.

I, Randi Johl, City Clerk of the City of Lodi, do hereby certify that Ordinance No. 1825 was introduced at a regular meeting of the City Council of the City of Lodi held October 21, 2009, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held November 4, 2009, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. 1825 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

RANDI JOHL
City Clerk

Approved as to Form:

JANICE D. MAGDICH
Deputy City Attorney